



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

220

CRR No.2066 of 2008 (O&M)

Date of decision: 04.02.2025

Kewal Krishan

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.P.S. Ghuman, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This revision petition has been preferred against the judgment dated 08.09.2008 passed by the learned Additional Sessions Judge (Adhoc) Fast Track Court, Jalandhar, vide which judgment of conviction and order on quantum of sentence dated 12.07.2007 passed by the learned Judicial Magistrate Ist Class, Jalandhar, in FIR No.29 dated 04.03.2004 under Section 420 of the Indian Penal Code (for short 'IPC'), registered at Police Station Division No.1, Jalandhar, District Jalandhar, have been upheld.

2. The petitioner was convicted and sentenced under Section 420 of IPC and was ordered to undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs.1,000/- along with default mechanism.

3. Brief facts of the case are that on 17.11.2003, the complainant, Deepika, submitted an application to the Superintendent of



Police, Jalandhar stating that her mother had passed away on 08.08.2003 and her father had died on 04.01.2000. After her father's death, the Railway department provided Rs.5.50 lacs, and her mother possessed 20 tolas of gold ornaments. Following her mother's death, her elder sister Geeta and her husband Kewal Krishan took all of her mother's belongings from their home in Village Hazipur. When the complainant demanded the same, they refused. The complainant also had another sister, Sangeeta, and prayed for action and recovery of the money and gold. Based on her statement, an FIR (supra) was registered against the accused.

4. Thereafter, the petitioner was convicted and sentenced vide judgement of conviction and order of sentence dated 12.07.2007 by the learned trial Court, which have also been upheld by learned Lower Appellate Court vide judgment dated 08.09.2008.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 08.09.2008 on merits and restricts his prayer qua modification of the order on quantum of sentence, to that of the sentence already undergone by the petitioner, as he has already undergone a period of 05 months, including remission and is not involved in any other criminal activity.

6. Per contra, learned State counsel opposes the prayer of the petitioner, as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record,



which has also been upheld by the learned Lower Appellate Court and as such, he does not deserve any leniency.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. In *Deo Narain Mandal Vs. State of UP, (2004) 7 SCC 257*, a three-Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, the manner, in which the offence is committed, age of the accused, should be considered, while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two-Judge Bench of the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166*, has reiterated that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realise the damage caused not only to the victim, but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner, in which the crime was



committed and conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

10. The FIR in the present case was lodged on 04.03.2004 and the petitioner has been suffering the agony of trial since the last 21 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate dated 03.02.2025, the petitioner is not involved in any other case and has undergone total sentence of 05 months including remission, out of total sentence of 02 years in the instant case.

11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

12. Consequently, the present revision petition is disposed of in the following terms:-

(i) The judgment dated 08.09.2008 passed by the learned Additional Sessions Judge, Jalandhar, affirming the judgment of conviction dated 12.07.2007 is upheld, however, the order of sentence of even date, is modified to the extent that the sentence of rigorous imprisonment for 02 years along with default mechanism awarded to the



petitioner is reduced to the period of sentence already undergone by him.

(ii) The sentence of fine of an amount of Rs.1,000/- imposed upon the petitioner by the learned trial Court is increased to Rs.5,000/-. The petitioner is directed to deposit the amount of fine before the learned trial Court within 01 month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo simple imprisonment for 01 month.

13. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

04.02.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No