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

Date of decision: 24.04.2025

1. CRA-S-1897-SB-2004 (O&M)

Ramesh Kumar

... Appellant

Vs.

State of Haryana

... Respondent

2. CRA-S-2012-SB-2004 (O&M)

Krishan

... Appellant

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

**Present: Mr. Ramesh Hooda, Advocate
for the appellant (in CRA-S-1897-SB-2004).**

**Mr. Lokesh Sharma, Advocate (legal aid counsel)
for the appellant (in CRA-S-2012-SB-2004).**

Ms. Geeta Sharma, DAG, Haryana.



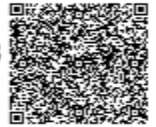
HARPREET SINGH BRAR, J. (ORAL)

1. This common judgment shall dispose of aforementioned both the appeals preferred against the judgment of conviction dated 14.09.2004 and the order of sentence dated 17.09.2004 passed by learned Sessions Judge, Rohtak, in FIR No.622 dated 23.11.2001 under Sections 489-A, 489-B, 489-C of the Indian Penal Code (for short 'IPC'), registered at Police Station Civil Lines, Rohtak.

2. Both these appeals arise out of same impugned judgment of conviction, on identical factual matrix. However, for the sake of brevity, facts are culled out from CRA-S-1897-SB-2004.

3. The appellants were convicted under Sections 489-B & 489-C of IPC for having in possession counterfeit currency notes of the denomination of Rs.500/- and were sentenced to undergo rigorous imprisonment for a maximum period of five years and to pay a total fine of Rs.4,000/- each along with default mechanism.

4. Learned counsel for appellant Ramesh Kumar, at the very outset, contend that he is not assailing the impugned judgment of conviction dated 14.09.2004 on merits and restrict his prayer only qua modification of the order of sentence dated 17.09.2004, to that of the sentence already undergone by the appellant, as he has already undergone actual sentence of 04 months and 07 days, out of rigorous imprisonment of five years and is not involved in any other criminal activity.



5. Learned legal aid counsel appearing for appellant Krishan, *inter alia*, contends that complainant Suresh Kumar appeared as PW5 and he did not identify the appellant as one of the person, who visited his shop for purchase of old car. The appellant was arrested from a public place after 05 days of registration of FIR (*supra*) along with 05 counterfeit currency notes, however, no independent witness was joined from the locality and even the police did not name the persons, who refused to join the recovery proceedings. Further, there are discrepancies in the testimonies of the prosecution witnesses. Learned trial Court failed to appreciate the fact that FIR number was mentioned on the recovery memo and site plan, which were prepared at the spot. The appellant has already undergone actual sentence of 06 months and 20 days, out of rigorous imprisonment of five years and he is not involved in any other criminal case.

5. *Per contra*, learned State counsel produces the custody certificates dated 24.04.2025 of both the appellants in the Court today, which are taken on record. She opposes the prayer made by the appellants, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, they do not deserve any leniency.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the appellants were convicted under Sections 489-B & 489-C of IPC, for which



no minimum punishment has been prescribed. As per their custody certificates, the appellants are not involved in any other case and out of rigorous imprisonment of five years, appellant Ramesh Kumar underwent actual sentence of 04 months and 07 days and appellant Krishan has undergone the actual sentence of 06 months and 20 days, in the instant case. Since there is no minimum punishment prescribed under Sections 489-B & 489-C of IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellants is reduced to the period already undergone by them.

7. In *Deo Narain Mandal Vs. State of U.P., (2004) 7 SCC 257*, 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, 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.

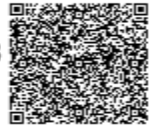
8. Further, the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166*, has reiterated that the imposition of



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 the 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 learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the FIR (*supra*) was lodged on 23.11.2001 and the appellants have been suffering the agony of trial for the last more than 23 years. Since their conviction, the appellants have grown into law-abiding citizens and desire to live a peaceful life.

10. Consequently, both these appeals are disposed of and the judgment of conviction dated 14.09.2004 passed by learned Sessions Judge, Rohtak is upheld, however, the order of sentence dated 17.09.2004 is modified to the extent that the sentence of rigorous imprisonment for a maximum period of five years and total fine of Rs.4,000/- each along with default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.



11. Secretary, High Court Legal Services Committee is directed to pay the remuneration to legal aid counsel, as per relevant Rules/Orders.
12. Photocopy of this judgment be placed on file of connected case.

24.04.2025
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**[HARPREET SINGH BRAR]
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No