

2025:PHHC:088422



229 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-850-2013 (O&M)
DECIDED ON: 18.07.2025

VIJAY KHANNA

....PETITIONER

VERSUS

STATE OF HARYANA

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

Mr. Salil Bali, Advocate
for the LR of the complainant.

SANDEEP MOUDGIL, J (ORAL)

1. The present revision petition is preferred against the judgment dated 04.03.2013 passed by the learned Additional Sessions Judge, Karnal, vide which the appeal against judgment of conviction dated 26.11.2010 and order of sentence dated 30.11.2010 passed by the learned Judicial Magistrate 1st Class, Karnal, in FIR No.372 dated 24.10.2003, under Sections 279/304-A of IPC, registered at Police Station Gharaunda, has been dismissed.

2. The petitioner was convicted and sentenced as mentioned below:

Offence	Sentence
Section 279 of IPC	Rigorous imprisonment for a period of 06 months and to pay fine of Rs.1000/- in default thereof, to further undergo simple imprisonment for one month.
Section 304-A	Rigorous imprisonment for a period of 02 years and to pay a fine of Rs.5,000/- in default thereof, to further

undergo simple imprisonment for 06 months.
Further the convict/petitioner was directed to deposit the compensation of Rs.10,000/-

All the sentences were ordered to run concurrently.

3. After assessing the material available on record, the learned trial Court convicted the petitioner vide judgment dated 26.11.2010. Aggrieved by the same, the petitioner preferred an appeal before the learned lower Appellate Court which has been dismissed vide judgment dated 04.03.2013.

4. Learned counsel for the petitioner *inter alia* contends that the learned trial Court has failed to consider and appreciate that the prosecution has failed to prove its case beyond reasonable doubt and there are material contradictions in the testimonies. Further, he is not assailing the impugned judgment of conviction on merits and restricts his prayer to modification of the order on quantum of sentence, to that of the sentence already undergone by the petitioner, as the petitioner has already undergone a total period of 01 month and 06 days in custody.

5. *Per contra*, learned State counsel opposes the prayer of the petitioner as the learned Courts below have passed well-reasoned judgments based on correct appreciation of evidence available on record and as such, he does not deserve any leniency. However, he could not controvert the fact that the petitioner is not involved in any other case.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner was convicted under Sections 279/304-A of IPC for which no minimum punishment has been prescribed. As per his custody certificate, petitioner has already undergone a period of 01 month and 06 days in custody out of total sentence of 02 years, in the instant case. Since there is no minimum punishment prescribed under

Sections 279/304-A of IPC, 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.

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 the 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 24.10.2003 and the petitioner has been suffering the agony of trial for last more than two decades. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life. Moreover, the complainant has placed on record copy of demand draft dated 12.07.2025 to the tune of Rs.6,00,000/- drawn in favour of Aadi Dharm Samaj Aadhas Bharat.

10. No doubt the criminal antecedents of the accused are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with reference to the evidence in that case alone and not with respect to the evidence in the other pending cases.

11. Taking into consideration the above narrated discussion as well as the fact that the petitioner has not challenged his conviction on merits, while affirming his conviction, the order of sentence is modified to the extent to the period already undergone by him with no change in fine clause, if any.

12. With the aforesaid modification in the quantum of sentence, the present criminal revision petition is dismissed.

13. The petitioner is ordered to be released forthwith in case he is not required in any other case.

14. Pending criminal misc. application, if any shall also disposed off.

18.07.2025
meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*