



CRR-1915-2011

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

CRR-1915-2011
Decided on:02.05.2025

Jagsir Singh @ Seera and others Petitioners

versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Kumar, Advocate (Amicus Curiae)
for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

Harpreet Singh Brar, J. (Oral)

1. The prayer in the present petition is to set aside the judgment dated 01.08.2011 passed by learned Addl. Sessions Judge, Barnala whereby while upholding the judgment of conviction dated 05.05.2011 passed by learned Judicial Magistrate 1st Class, Barnala in case stemming from FIR No.82 dated 27.08.2008 registered under Sections 452, 323, 325, 34 IPC at Police Station Dhanaula, modified the sentence of the petitioners as under:

Name of petitioner	Offence under Section(s)	Sentence
Jagsir Singh @ Seera Jiwan Singh Minti Pala Singh	452 IPC	RI for one year and to pay fine of Rs.500/- each and in default of payment of fine to further undergo RI for one month
Pala Singh	325 IPC	RI for one year and a fine of Rs.500/-, in default of payment of fine to further undergo RI for one month
Jagsir Singh @ Seera Jiwan Singh Minti	325 r/w 34 IPC	RI for one year and a fine of Rs.500/-each and in default of payment of fine to further undergo RI for one month
Jagsir Singh @ Seera Jiwan Singh	323 IPC	RI for one month
Pala Singh Minti	323 r/w 34 IPC	To undergo RI for one month



CRR-1915-2011

Minti	323 IPC	To undergo RI for one moth
Jagsir Singh Pala Singh Jiwan Singh	323 r/w 34 IPC	To undergo RI for one month
It was ordered that all the sentences shall run concurrently.		

3. Learned Amicus Curiae *inter alia* contends that the FIR was registered after the delay of three days, which creates a serious dent in the case of the prosecution. Further, the complainant Darshan Singh PW-4 and Nirmal Singh PW-5 are closely related to each other and being interested witnesses, it could not be safe to rely on these witnesses specially when the medical evidence is contradictory to the ocular evidence of the witnesses. No independent witness was joined in the investigation. Further, no specific injury was attributed to any of the petitioners and as such, provisions of Section 34 IPC could not be invoked by the prosecution. Even in the MLR of PW-4 Darshan Singh, it was mentioned that the patient was compulsive drinker and he suffered injuries by falling due to drunken condition. The prosecution has miserably failed to prove its case beyond the shadow of reasonable doubt and therefore, the petitioners could not be held guilty. As per the custody certificates, the petitioners have undergone a period of more than 05 months and are not involved in any other case.

4. *Per contra*, learned State counsel opposes the prayer of the petitioners as 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, they do not deserve any leniency.

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

6. In ***Deo Narain Mandal v. State of UP (2004) 7 SCC 257***, a



CRR-1915-2011

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, 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.

7. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala v. 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.

8. A perusal of the judgment of conviction passed by the learned Appellate Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. It transpires that the petitioners were convicted under Sections 452, 323, 325, 34 IPC, for which no minimum punishment has been prescribed.

9. The FIR in the present case was lodged on 27.08.2008 and the petitioners have been suffering the agony of trial for the last more than 16



CRR-1915-2011

years. Since their conviction, the petitioners have grown into law-abiding citizens and desire to live a peaceful life. As per their custody certificates, the petitioners have undergone a period of more than 05 months out of total sentence of one year awarded by learned Appellate Court and they are not involved in any other case.

10. Since there is no minimum punishment prescribed under Sections 452, 323, 325, 34 IPC IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

11. Consequently, the present petition is disposed of and the judgment dated 01.08.2011 passed by the learned Additional Sessions Judge, Barnala upholding the judgment of conviction dated 05.05.2011 passed by learned Judicial Magistrate 1st Class, Barnala is upheld, however, the order of sentence modified by learned Appellate Court vide judgment dated 01.08.2011 is modified to the extent that the sentence of rigorous imprisonment for one year and fine along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by them.

12. The High Court Legal Services Authority is directed to pay remuneration to learned *Amicus Curiae* as per rules.

13. Pending miscellaneous applications, if any, shall also stand disposed of.

02.05.2025
sonia

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No