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

**CRR-1818-2012 (O&M)
Date of Decision: 04.04.2025**

THAN SINGH

...PETITIONER

Versus

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Lipika, Advocate for
Mr. R.S. Mamli, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Harpreet Singh Brar, J. (Oral)

1. The prayer in the present appeal is to set aside the judgment dated 21.05.2012 passed by learned Sessions Judge, Gurgaon vide which judgment of conviction and order on quantum of sentence dated 06.12.2011/07.12.2011 passed by learned Judicial Magistrate Ist Class, Gurgaon have been upheld, whereby the petitioner was convicted and sentenced for the offences punishable under Sections 279, 337 and 304-A of Indian Penal Code, 1860 (hereinafter to be referred as 'IPC') in the case stemming from FIR No. 255 dated 26.09.2004 registered at Police Station Sohna, District Gurgaon.

2. The petitioner was sentenced as mentioned below:

Offence under Section	Sentence	Fine	Sentence in default of payment of fine
279 of IPC	Simple imprisonment for 06 months	Rs. 1,000/-	Simple imprisonment for 01 month
337 of IPC	Simple imprisonment for 06 months	Rs. 500/-	Simple imprisonment for 01 month
304-A of IPC	Simple imprisonment for 01 year	Rs. 3,000/-	Rigorous imprisonment for 03 months

All the sentences were ordered to run concurrently.

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3. Learned Counsel for the petitioner submits that she is not assailing the impugned judgment of conviction dated 21.05.2012 passed by learned Sessions Judge, Gurgaon on merits and restricts his prayer to modification of the order on quantum of sentence dated 07.12.2011 passed by learned Judicial Magistrate Ist Class, Gurgaon to that of sentence already undergone by the petitioner as he has already undergone a period of 09 months and 01 days (including remission) out of total sentence of 01 year imposed upon him.

4. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and the said judgment has also been upheld by learned lower Appellate Court and as such, petitioner do not deserve any leniency. Moreover, the petitioner is also involved in one more case.

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

6. In **Deo Narain Mandal v. State 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, 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 lower Appellate Court indicates no perversity in its findings and the said judgment is based on correct appreciation of evidence available on record. It transpires that the petitioner was convicted under Sections 279, 337 and 304-A of IPC, for which no minimum punishment has been prescribed. The FIR in the present case was lodged on 26.09.2004 and the petitioner has been suffering the agony of trial since the last more than 20 years. As per his custody certificate, he has undergone a period of 09 months and 01 day (including remission) out of substantive sentence of 01 year imposed upon him. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits. Rather, he has restricted his prayer only qua modification of order on quantum of sentence. Since there is no minimum punishment prescribed under Sections 279, 337 and 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.



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9. 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.

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

(i) The judgment of conviction dated 21.05.2012 passed by the learned Sessions Judge, Gurgaon is upheld, however, the order of sentence dated 07.12.2011 is modified to the extent that the substantive sentence of simple imprisonment for 01 year and total fine of Rs. 4,500/- with default mechanism is reduced to the period of sentence already undergone by the petitioner.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

04.04.2025

Ajay Goswami

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No