

JASBIR SINGH

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v.

TARA SINGH AND OTHERS

(Criminal Appeal No. 1241 of 2015)

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SEPTEMBER 21, 2015

[KURIAN JOSEPH AND ARUN MISHRA, JJ.]

*Sentence/Sentencing: Appeal by complainant against the alleged lenient view taken by High Court with regard to the sentence – Conviction of respondents u/ss. 466, 467, 468, 471, 120-B, IPC for committing forgery of documents – Sentence imposed upon respondents-accused ranging from 1 to 3 years – Challenge to the quantum of sentence – Respondents underwent 4-5 months in custody – High Court reduced sentence to period already undergone – Complainant’s appeal – Held: Unless there are mitigating circumstances, the appellate/revisional court will not be justified in arbitrarily reducing the sentence awarded by the trial court – When the appellate/revisional court reduces the sentence, the factors leading to such reduction should be reflected in the order – Punishment must be appropriate and proportional to the gravity of the offence committed – In view thereof, impugned order is set aside and matter remitted to High Court.*

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**Allowing the appeal and remitting the matter to the High Court, the Court**

**HELD: The prescribed maximum punishment for offence under Section 466 of IPC is seven years and fine; under Section 467 of IPC, it is imprisonment for life or imprisonment for ten years and fine; under Section 468 of IPC, it is seven years and fine and under Section 471 of IPC, it is two years or with fine or both. The gravity of**

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A the offence, the mitigating factors and circumstances like parties buying peace, parties settling the disputes and getting reconciled, victim subsequently becoming part of the family, victim showing interest in getting monetarily compensated, etc., the motive for commission of the  
 B crime, the manner in which it was planned and committed are factors that help the court to discern and decipher the appropriate purpose of punishment and to enter a satisfaction that justice has been done. Unless there are  
 C mitigating circumstances which were omitted to be noted by the trial court, the appellate/revisonal court will not be justified in arbitrarily reducing the sentence awarded by the trial court. And in any case, when the appellate/  
 D revisonal court reduces the sentence, the factors leading to such reduction should be reflected in the order. [Paras 9 and 10] [65-C, E-H]

*Jameel v. State of Uttar Pradesh* (2010) 12 SCC 532: 2009 (15) SCR 712 – relied on.

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Case Law Reference

2009 (15) SCR 712      relied on.      Para 11

F CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1241 of 2015.

From the Judgment and Order dated 16.07.2013 of the High Court of Punjab and Haryana at Chandigarh in Criminal Revision No. 1072 of 2013.

G Gagan Gupta for the Appellant.

Jayant K. Sud, Addl. AG, Jasleen Chahal, Asst. A. G., Ajay P. Tushir, K. K. Mohan, Kuldip Singh, for the Respondents.

H The Judgment of the Court was delivered by

**KURIAN, J.:** 1. Leave granted.

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2 The *de facto* complainant has come up in appeal aggrieved by the alleged lenient view taken by the High Court in the impugned judgment with regard to the sentence.

3. The party-respondents were tried under Sections 466, 467, 468, 471, 120B of the Indian Penal Code (45 of 1860) (hereinafter referred to as 'IPC') for having committed a serious offence of forgery of documents in order to grab the property of one Harbans Singh. The trial court imposed the following sentence:

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<u>Name of Accused</u>	<u>Section</u>	<u>R.I.</u>	<u>Fine (Rs.)</u>	<u>In Default</u>
Partapa	466 IPC	2 years	500/-	One month
Tara Singh	466/120-B	1 year	500/-	One month
	467 IPC	3 years	1000/-	Two months
	468 IPC	3 years	1000/-	Two months
	471 IPC	2 years	500/-	One months
Bhajan Singh	467 IPC	3 years	1000/-	Two months
	468 IPC	3 years	1000/-	Two months
Charan Dass	467 IPC	3 years	1000/-	Two months
	468 IPC	3 years	1000/-	Two months
Dalbir Singh	467 IPC	3 years	1000/-	Two months
	468 IPC	3 years	1000/-	Two months"

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4. The appeal by the party-respondents was dismissed. In Revision, it appears the challenge was limited only to the quantum of sentence. As a matter of fact, notice issued by this Court is limited to the question of quantum of sentence only. The party-respondents mainly contended on prolonged trial and their advanced age. To quote the relevant submissions:

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A "... Learned counsel for the petitioners contends that the  
 petitioners are facing agony of trial since registration of  
 the FIR i.e. 25.6.1996 and they are in the age group of  
 45 to 58. Learned counsel further contends that the  
 B petitioners are first offenders, they are neither previous  
 convicts nor are having any criminal background. Learned  
 counsel prays that keeping in view the age of the  
 petitioners and also the fact that they have already  
 suffered a lot of mental agony as they are facing trial since  
 C 1996, their sentence, therefore, be reduced to the period  
 already undergone by them. ..."

5. The High Court passed the following order:

"Heard the arguments advanced by learned counsel for  
 the parties and have also gone through the contents of  
 D the FIR.

Keeping in view the submissions made by learned  
 counsel for the petitioners that the petitioners are first  
 offenders and are not having any criminal background  
 and are facing agony of trial since registration of FIR i.e.  
 E 25.6.1996, the present petition is partly allowed. The  
 judgments passed by Courts below qua conviction are  
 upheld and sentence of the petitioners is reduced to the  
 period already undergone by them."

F 6. The actual period undergone by the party-respondents  
 is as follows, as noted in the impugned judgment:

"As per the custody certificate issued by Jail  
 Authorities, as on 24.05.2013, the custody period/  
 G actual period undergone (excluding remission) of  
 the respondents is:

- |   |              |   |                    |
|---|--------------|---|--------------------|
| H | Tara Singh   | - | 4 months 26 days,  |
|   | Bhajan Singh | - | 5 months 24 days,  |
|   | Charan Dass  | - | 5 months 26 days,  |
|   | Dalbir Singh | - | 5 months 24 days." |

Learned Counsel for the party-respondents submits that they have undergone a few more days incarceration in the jail. A

7. The appellant submits that the offences being grave in nature, the High Court should not have let them go lightly.

8. Heard the learned Counsel appearing for the party-respondents as well. B

9. The prescribed maximum punishment for offence under Section 466 of IPC is seven years and fine; under Section 467 of IPC, it is imprisonment for life or imprisonment for ten years and fine; under Section 468 of IPC, it is seven years and fine and under Section 471 of IPC, it is two years or with fine or both. The trial court, having regard to the very same submissions made before the High Court, passed the sentence which we have extracted above. C  
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10. Though it is not possible for this court to lay down strict principles on sentencing in the absence of a sentencing policy for the State, certain indicators need to be borne in mind by the Courts. The gravity of the offence, the mitigating factors and circumstances like parties buying peace, parties settling the disputes and getting reconciled, victim subsequently becoming part of the family, victim showing interest in getting monetarily compensated, etc., the motive for commission of the crime, the manner in which it was planned and committed, the prescribed punishment and the social abhorrence of the offences are but a few of them. These factors would help the court to discern and decipher the appropriate purpose of punishment and to enter a satisfaction that justice has been done. Unless there are mitigating circumstances which were omitted to be noted by the trial court, the appellate/revisional court will not be justified in arbitrarily reducing the sentence awarded by the trial court. And in any case, when the appellate/revisional court reduces the sentence, the factors leading to such reduction should be reflected in the order. E  
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- A 11. In this context, it would also be profitable to refer to **Jameel v. State of Uttar Pradesh**<sup>1</sup>, where this Court held that the punishment should reflect the society's cry for justice against the criminals. To quote
- B "14. The general policy which the courts have followed with regard to sentencing is that the punishment must be appropriate and proportional to the gravity of the offence committed. Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that
- C courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime.
- D 12. In the above circumstances, the appeal is allowed and impugned judgment is set aside. The matter is remitted to the High Court for passing an appropriate order in the case in accordance with law.

Devika Gujral

Appeal allowed & matter remitted back to High Court.

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<sup>1</sup>(2010) 12 SCC 532