

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

310

CRR No.683 of 2005
Decided on: December 02, 2015.

Ajaib Singh

.... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Sudhir Sharma, Advocate for the petitioner.
Mr.Jashanpreet Singh AAG, Punjab.

M.M.S. BEDI, J (ORAL)

Ajaib Singh has filed this revision petition against the conviction order passed under Sections 279 and 338 IPC sentencing him to undergo rigorous imprisonment for a period of three months under Section 279, IPC; and for 6 months under Section 338 IPC along with payment of fine of Rs.500/-, recorded concurrently by the courts below.

As per story of the prosecution, the petitioner was driving a bus in rash and negligent manner; on account of which, it met with an accident with a truck coming from the opposite side. The driver, besides the co-driver, of the truck suffered injuries.

The accident had taken place on 30.06.1999. During this period of more than 16 years of litigation including the period of trial,

appeal and the present revision petition, the petitioner appears to have developed cancer of his tongue. In this context, his medical record has been made available.

Vinod Kumar, co-driver of the truck appeared as PW-3 to state that his left leg and right arm were broken. The driver of the truck, namely Shankar who appeared as PW-4, had also received injuries resulting in amputation of his left leg below knee. Shankar had filed a claim petition before the MACT, Roop Nagar. He has been awarded compensation of Rs.2,98,720/- along with interest to be paid by Punjab Roadways. It has not been brought on record whether Vinod Kumar filed any claim petition for injuries suffered.

The culpability of the petitioner having rashly and negligently driven the bus resulting in injuries to Vinod Kumar and Shankar stands determined by the two courts below.

Taking into consideration the facts that the petitioner is facing the proceedings for a long period and that the petitioner is not in a physically fit condition and simultaneously taking into consideration the injuries suffered by two persons, I am of the considered opinion that though the conviction order against the petitioner deserves to be upheld, as passed by both the courts below, yet sending the petitioner behind bar for the duration ordered by the courts below would be very harsh. The petitioner has already undergone sentence of imprisonment for about two months. The sentence of imprisonment is accordingly reduced to the period already undergone by enhancing the amount of fine to the extent of

Rs.35,000/- in addition to the one already imposed under Section 338, IPC (Rs.10,000/-to be paid to Vinod Kumar and Rs.15,000/- to be paid to Shankar) to be paid within a period of two months. In case the enhanced amount of fine is not paid within two months, the petitioner will have to undergo simple imprisonment for a period of one month. In case the fine is deposited, the Area Magistrate will ensure that notice is issued to Vinod Kumar and Shankar to receive the sum of Rs.10,000/- and Rs.15,000/- respectively as mentioned here-in-above and the money is released to them.

Disposed of in the above-said terms.

(M.M.S. BEDI)
JUDGE

December 02, 2015
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