

Feeling aggrieved against the judgments of both the courts below, the petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On the night intervening 15/16.08.2008, on receipt of an information regarding an accident, police of Police Station Khuian Sarwar reached Civil Hospital, Sri Ganganagar. However, at that time the doctor declared the injured unfit to make statement. On 17.8.2008, the investigating officer again went to Anchal Hospital, Sri Ganganagar to record statement of injured where injured Sushil Kumar son of Kasturi Lal made his statement to the effect that on the intervening night of 15/16.8.2008, he alongwith his brother-in-law Raj Kumar was coming from Abohar to Ganganagar in Alto car No.RJ07TC-3445. When they reached 1½ KM behind village Kaller Khera, one truck bearing No.RJ13GA-0033 came from opposite side, which was being

driven in a rash and negligent manner and without blowing horn or using dipper, struck the same into their car, as a result of which complainant received injuries on his right leg, right shoulder, right eye and Raj Kumar sustained injuries above his both legs on his hip, face, forehead and right arm. Due to the said accident, leg of the complainant got fractured and both hip joints of his brother-in-law namely, Raj Kumar were also affected. Name of the truck driver was later on known as Chander Shekhar (appellant herein). After providing first aid, the injured persons were admitted to Civil Hospital, Sri Ganganagar from where they were taken to Anchal Hospital, Sri Ganganagar. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under Sections 279, 337, 338 and 426 IPC, charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as six witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, the learned trial

court held the petitioner guilty of the charge under sections 279, 337, 338 & 426 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Fazilka on 7.3.2015.

On a perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is a poor persons and main bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record affidavit of Surinder Singh, Superintendent, Central Jail, Ferozepur, according to which the petitioner has undergone custody of 02 months & 21 days and his custody including remission is 02 months and 25 days till date.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to the period already undergone by him but the petitioner is burdened with

a fine of Rs.30,000/- (Rs.15,000/- each to be paid as compensation to the complainant Sushil Kumar and injured Rajkumar). The fine be deposited within three months from the date of receipt of certified copy of this order. However, in case fine aforesaid is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court.

Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

(RAJAN GUPTA)
JUDGE

28.5.2015
'rajpal'