

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

Criminal Revision No.1478 of 2015 (O&M)

Date of decision : 26.05.2015.

Nikhil Midha

.....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. B.D. Sharma, Advocate for petitioner.

Mr. Neeraj Yadav, AAG, Punjab.

Mr. Amit Aggarwal, Advocate for respondent No.2.

DARSHAN SINGH, J.

CRM-17465-2015

This application has been filed for pre-poning the present case on the ground that the matter has been amicably settled between the parties.

Learned counsel for the respondents have no objection in pre-poning the case. So, the main case is pre-poned to be taken up today itself.

CRM-17498-2015

This application has been filed for placing on file the affidavit of respondent No.2-complainant Sheenu Goel.

Heard.

In view of the reasons mentioned in the application, the application is allowed. Affidavit of complainant Sheenu Goel is taken on record.

CRR-1478-2015

2- Learned counsel for the petitioner states that he only wants to pursue the present petition on the quantum of sentence. So the present petition is admitted qua the quantum of sentence.

3- Petitioner Nikhil Midha has been held guilty and convicted for the offences punishable under Sections 279 and 338 of the Indian Penal Code, 1860 (here-in-after called 'IPC') for causing grievous injuries to respondent No.2 Sheenu Goel on 04.03.2008 by driving his Qualis car bearing registration No.HR-03D-4327 in a rash and negligent manner. The petitioner has been sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1000/- and in default of payment of fine, to undergo simple imprisonment for fifteen days for the offence punishable under Section 279 IPC. He was further sentenced to undergo rigorous imprisonment for a period of two years and a fine of Rs.1000/- and in default of payment of fine, to undergo simple imprisonment for two months.

4- The appeal against the conviction and sentence filed by the

petitioner has been dismissed by the learned Additional Sessions Judge, SAS Nagar, Mohali.

5- Learned counsel for the petitioner has pleaded that the parties have compromised the matter. The main offence punishable under Section 338 IPC is compoundable. The injured has been suitably compensated. She has also filed her affidavit to this effect. He further contended that the petitioner is a first offender and is not a previous convict. He has faced the agony of this litigation for the last more than seven years. So, he deserve the concession of the probation.

6- Mr. Amit Aggarwal, Advocate, learned counsel for complainant-respondent No.2 has also fairly conceded that the matter has already been compromised between the parties. The complainant has been suitably compensated by the present petitioner. He also states that the facts mentioned in the affidavit of the complainant are correct. He has no objection if the lenient view is taken in the matter of sentence and the petitioner may be granted the benefit of probation.

7- Mr. Neeraj Yadav, learned Assistant Advocate General for the respondent-State of Punjab pleaded that number of grievous injuries were caused to the complainant. The sentence awarded by the learned trial Court is justified.

8- The aforesaid contentions have been duly considered.

9- This fact is not disputed that the offence punishable under Section 338 IPC i.e. the main offence for which the petitioner has been convicted is compoundable with the permission of the Court. As per

Section 320 (6) of the Code of Criminal Procedure, 1973 the composition of the offence can be allowed even at the stage of revision by this Court.

10- The affidavit of complainant Sheenu Goel placed on record shows that now the matter has been settled. The complainant has received the full and final compensation for the injuries caused to her as well as the damage caused to her Honda Activa scooter. She also stated in the affidavit that the copy of the said compromise is annexed as Annexure P-1. In the affidavit, it is further mentioned that she has no objection in case the lenient view is taken against the petitioner.

11- No doubt the offence punishable under Section 279 IPC is non-compoundable but in view of the compromise between the parties and the facts that the petitioner has already remained in custody for a period of one month and five days, he is not a previous convict, he has faced the agony of this litigation for the last more than seven years and has fully compensated the injured complainant with respect to the injuries suffered by her and the damage caused to her vehicle, the lenient view can certainly be taken and the benefit of probation can be granted to the petitioner.

12- Consequently, the order on the quantum of sentence dated 23.09.2014 is hereby modified. Instead of the substantive sentence, the petitioner is ordered to be released on probation on furnishing the probation bond, operative for a period of two years, with one surety in the like amount to the satisfaction of the learned trial Court/Duty Magistrate. During this period, the petitioner will keep peace and be of good

behaviour and will come to receive the sentence as and when called to do so. The probation bonds be furnished with the learned trial Court/Duty Magistrate, Mohali within seven days. The petitioner is in custody. On furnishing the requisite probation bonds, his release warrant shall be issued by the learned trial Court/Duty Magistrate, as the case may be.

13- The present petition stands disposed of accordingly.

Dated: 26.05.2015

sunil yadav

**(DARSHAN SINGH)
JUDGE**