

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

**CRR No. 2498 of 2015 (O&M)
Date of Decision: 14.08.2015**

Pritpal Singh

.....Applicant

Vs.

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. B.S.Aulakh, Advocate
for the petitioner.

- 1. To be referred to the Reporters or not?**
- 2. Whether the judgment should be reported in the Digest?**

RAMESHWAR SINGH MALIK J.

Present criminal revision petition is directed against the impugned judgment dated 27.10.2014 passed by the learned Sessions Judge, Sangrur, whereby appeal of the petitioner against the judgment of conviction and order of sentence of even date, i.e. 18.12.2013 passed by the learned Sub Divisional Judicial Magistrate, Sangrur, was dismissed and conviction as well as sentence awarded to the petitioner was upheld.

Brief facts of the case, as recorded by the learned Sessions Judge, in para 2 of the impugned judgment, are that on 7.1.2009, a telephonic message was received by MHC, Police Station, Sadar Sunam, from Police Station Mehlan, regarding

admission of injured Jaswinder Singh son of Ajaib Singh in Civil Hospital, Sunam due to road side accident and his referral therefrom to Civil Hospital, Sangrur. On receiving the information, ASI Pritpal Singh, investigating officer of the case, reached civil hospital, Sangrur, where it was revealed that injured Jaswinder Singh got himself discharged for getting treatment in some other hospital. On 8.1.2009, it transpired that injured Jaswinder Singh was admitted in Rajindra Hospital, Patiala. Thereafter, ASI Pritpal Singh alongwith other police officials reached Rajindra Hospital, Patiala and moved application to know about fitness of the injured to make the statement. Doctor declared the injured to be fit to make the statement. On 9.1.2009, complainant got his statement recorded with the investigating officer to the effect that he was doing the course of electrician at ITI, Sunam and on 7.1.2009 at about 10:00 A.M., he alongwith Gurpiar Singh son of Ram Singh, resident of Khetla, Kuldeep Sharma son of Ram Rattan, resident of Banarsi and Sewa Singh, were to board mini bus bearing registration No. PB-13-S-9112 from Mehlan chowk for Sunam. Gurpiar Singh, Kuldeep Sharma and Sewa Singh boarded the bus but when the complainant tried to board the bus from its front window, conductor blew whistle as a signal to driver to move the bus. Driver immediately speed up the bus due to which the complainant lost grip of front window of the bus and had fallen from the bus, due to which his right leg was crushed under conductor side rear tyre of the bus. When the complainant raised alarm, driver of the bus stopped the bus near filling station. When friends of the complainant became busy in taking care of him, driver

of the bus namely Pritpal Singh son of Amarjit Singh, resident of village Kapial alongwith the bus fled away from the spot. The accident took place on account of negligence of the driver while driving the bus in a rash and negligent manner. The complainant was rushed to civil hospital, Sunam, from where he was referred to civil hospital, Sangrur and then to Rajindra Hospital, Patiala. On 8.1.2009, complainant could not make statement as he was not feeling well. The aforesaid statement was read over to the complainant who signed the same after admitting its contents to be correct. The statement was sent to the police station on the basis of which, a formal FIR Ex.PW7C was registered at Police Station Sadar Sunam under Sections 279/337 of the Indian Penal Code ('IPC' for short), against the accused. Rough site plan was prepared by the investigating officer depicting the place of the accident. On receiving X-ray report declaring injury on the right leg as grievous, offence under Section 338 IPC was added and the accused was arrested. Statements of the witnesses were recorded and challan was presented against the accused under Sections 279/337/338 IPC.

Challan having been presented, copy thereof alongwith documents attached therewith, was supplied to the accused. A prima facie case was found to be made out against the accused and they were charge sheeted for the offences punishable under Sections 279/337/338 IPC. Accused pleaded not guilty and claimed trial. In order to substantiate charges against the accused, prosecution examined as many as 11 PWs, besides tendering other relevant documents into evidence.

On closure of the prosecution evidence, statements of the accused were recorded under Sections 313 of the Code of Criminal Procedure ('Cr.P.C.' for short). All the incriminating material was put to the accused. Accused denied the allegations, alleged false implication and claimed complete innocence. However, no defence evidence was led.

After hearing learned counsel for both the parties and going through the evidence brought on record, learned trial court came to the conclusion that prosecution has proved its case, bringing home guilt against the accused. Accordingly, accused persons were held guilty and convicted for the offences punishable under Sections 279/337/338 IPC, vide impugned judgment of conviction dated 18.12.2013. Vide order of sentence dated 18.12.2013, accused were sentenced to undergo rigorous imprisonment for six months for the offence under Section 279 IPC. Similarly, sentence to undergo rigorous imprisonment for 6 months was awarded for the offence under Section 337 IPC. Sentence of 1 year and fine of Rs. 5,00/- was awarded for offence under Section 338 IPC. In default of payment of fine, accused were further ordered to undergo rigorous imprisonment for 1 month. However, all the sentences were ordered to run concurrently. Dissatisfied, convicts filed their appeals which also came to be dismissed vide impugned judgment dated 27.10.2014. Hence the present criminal revision petition, at the instance of convict-Pritpal Singh.

Learned counsel for the petitioner, at the very outset, submits that he does not intend to press this petition on merits. He

further submits that let conviction of the petitioner be upheld and the present criminal revision petition may be considered only for the purpose of reduction of sentence.

Notice to the Advocate General, Punjab, to the limited extent indicated above.

On the asking of the Court, Ms. Anmol Grewal, AAG, Punjab, accepts notice and files custody certificate by way of affidavit dated 11.8.2015.

Learned counsel for the petitioner submits that in terms of the custody certificate, petitioner has already undergone total sentence for a period of 9 months and 12 days as on 8.8.2015, including the period of remission, out of total sentence awarded to him for a period of 1 year RI. He further submits that only about 40 days more are left to be undergone by the petitioner. Highlighting the mitigating circumstances in favour of the petitioner, learned counsel for the petitioner submits that the petitioner is the first offender and is only breadwinner of his family. Petitioner is not involved in any other case. Petitioner has been facing agony of criminal trial for a long period, because of which sentence of the petitioner deserves to be reduced to the period already undergone by him. He prays for allowing the present petition to the extent indicated above.

Per contra, learned counsel for the State submits that learned trial court itself has shown leniency while awarding sentence to the petitioner on lower side. In such a situation, there was hardly any scope for any further reduction in the sentence. She prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, it is just and expedient to reduce the sentence of the petitioner to the period already undergone by him, while upholding his conviction. To say so, reasons are more than, one which are being recorded hereinafter.

It is a matter of record that petitioner is the first offender. Petitioner has been facing the agony of criminal trial for the last more than 6½ years. Petitioner has not been found involved in any other case. Further, in terms of the custody certificate, petitioner has already undergone total sentence for a period of 9 months and 12 days as on 8.8.2015, including the period of remission, out of total sentence awarded to him for a period of 1year RI. Having said that, this Court feels no hesitation to conclude that ends of justice would be adequately met if the sentence of the petitioner is ordered to be reduced to the period already undergone by him.

The view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in the case of **2006(4) R.C.R. (Criminal) 645 titled as "R. Soundarajan v. Seed Inspector, Coimbatore and another"** and **"Umrao Singh v. State of Haryana, 1981 AIR (SC) 1723.**

The relevant observations made by the Hon'ble Supreme Court in the case of **R. Soundarajan v. Seed Inspector, Coimbatore and another (Supra)**" are as under:-

“26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment.”

In **“Umrao Singh v. State of Haryana, (supra)**, the Hon'ble Supreme Court observed as under:-

“After hearing counsel for the parties, we are satisfied that this is a case falling under the proviso of Section 16(1)(a)(i) and therefore, for adequate and special reasons, the sentence lower than the minimum prescribed could be awarded. The High Court itself felt bound to award the minimum sentence but on merits was satisfied that if the legal position warranted the appellant could be given lesser sentence. We are in agreement with the view of the High Court. The appellant/ petitioner

is aged about 70 and suffering from asthma illness and has a clean past record. Besides, the percentage of deficiency that was noticed in the milk sold by him was 0.4% in the fat contents. 2. Having regard to these facts, the expression of the view of the High Court was justified. We accordingly reduce the sentence of the appellant to the period already undergone. The sentence, of fine is maintained and we are informed that he has already paid the fine. Since he is already on bail, he should be released forthwith. 3. The appeal is disposed of accordingly.”

In view of the totality of facts and circumstances of the case noted above, coupled with the reasons aforementioned, conviction of the petitioner is upheld, however, his sentence is ordered to be reduced to the period already undergone by him. Petitioner is directed to be released forthwith, if he is not required in any other case.

Resultantly, with the modification in the sentence, noted above, the instant criminal revision petition is disposed of, accordingly.

(RAMESHWAR SINGH MALIK)
JUDGE

14.8.2015
Ak Sharma