

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

Crl. Revision 2033 of 2008
Date of Decision : May 03, 2016

Darshan Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Madan Pal, Advocate

Mr. Dhruv Dayal, Deputy A.G., Haryana

T.P.S. MANN, J. (Oral)

The petitioner was tried for committing the offences punishable under Sections 279 and 338 IPC. Vide judgment and order dated 21.8.2007, learned Additional Chief Judicial Magistrate, Panipat convicted him under Section 279 IPC and sentenced him to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs. 500/-. He was also convicted under Section 338 IPC and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 500/-. In default of payment of fine, he was sentenced to undergo simple imprisonment for a period of fifteen days. Both the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same was dismissed by learned Additional Sessions Judge, Panipat vide judgment dated 23.9.2008. Still not satisfied, he filed the present revision which came to be admitted on 3.10.2008. Subsequently, on 16.10.2008, this Court suspended his sentence of imprisonment and ordered his release on bail till the disposal of the revision.

The prosecution case, in brief, is that on 27.10.1999 at about 6.30 p.m., complainant Rohit was going from his house to Lal Bati on his scooter bearing registration No. HR-06E-3267 and when he reached Assandh road near Chhabra Hospital, Panipat, a truck bearing registration No. HR-32-2221 being driven by its driver in a rash and negligent manner and without blowing any horn came from the red light side and dashed against his scooter due to which, he received multiple injuries on his legs and arms. The scooter was also damaged. The driver of the truck, however, managed to escape from the spot alongwith his truck.

During the investigation of the case which was conducted by HC Rakesh Kumar, it was revealed that the offending truck was being driven by the petitioner at the time of the occurrence.

Having heard learned counsel for the parties and on going through the impugned judgments passed by the Courts

below, this Court is of the considered view that the prosecution has led sufficient evidence to prove its case against the petitioner beyond reasonable doubt. Complainant-Rohit, who had received injuries in the accident in question testified that it was the petitioner, who was driving the offending truck at the time of the occurrence and had struck against his scooter resulting into causing of injuries to him as well as his scooter being damaged. His testimony stands duly corroborated by PW2 Bharat Bhushan. PW7 ASI Satya Narain, who had mechanically examined the offending truck as well as the scooter belonging to the complainant proved his report Ex. PW7/A wherein it stands mentioned that the bumper of the truck was found rubbed with grey colour of the scooter belonging to the injured. Under these circumstances, the conviction of the petitioner for the offences under Sections 279 and 338 IPC is upheld.

As regards the quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last more than sixteen years. He is not shown to be involved or convicted in any other case. According to him, he is a poor person and sole bread winner of his family. Further, he has already undergone a period of about one month out of the sentence of six months imposed upon him. Prayer has, accordingly, been made for setting aside his remaining sentence of imprisonment.

Learned State counsel has opposed the prayer made by submitting that on account of the rash and negligent driving of the petitioner, complainant Rohit had received injuries including fracture of distal end of radius and fracture of the proximal end of tibia. Learned State counsel has, however, produced the custody certificate which indicates that the petitioner has already undergone a sentence of twenty six days.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing the remaining sentence of imprisonment imposed upon him. Ends of justice would be amply met, if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner for the offences under Sections 279 and 338 IPC is upheld. His substantive sentences of imprisonment on both the counts shall stand reduced to the one already undergone by him. The fine of Rs. 500/- imposed upon the petitioner for the offence under Section 279 IPC is maintained. However, the fine of Rs. 500/- imposed for the offence under Section 338 IPC is enhanced to Rs. 15,000/-. The petitioner has already deposited the fine of Rs.1,000/- imposed upon him by the trial Court. Therefore, in default of payment of enhanced amount of fine, i.e. Rs. 14,500/-,

he shall undergo simple imprisonment for three months. The enhanced amount of fine, if deposited by him, be disbursed to complainant-Rohit as compensation.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

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(T.P.S. MANN)
JUDGE