

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

CRR No.2145 of 2008 (O&M)  
Decided on:-November 11, 2016.

Surender.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

***CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.***

Present:- Ms. Amandeep Sibia, Advocate  
for the petitioner.

Mr. Manish Bansal, DAG, Haryana  
for the respondent-State.

**HARI PAL VERMA, J.**

The petitioner has filed present revision petition challenging the judgment dated 19.08.2008 passed by learned Additional Sessions Judge, Rewari, whereby his appeal filed against the judgment of conviction dated 19.07.2007 and order of sentence dated 20.07.2007 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Rewari, was dismissed.

Learned Magistrate vide judgment dated 19.07.2007 convicted the petitioner for offence punishable under Sections 279, 337 and 338 IPC and vide separate order dated 20.07.2007, sentenced him as under:

Under Section

Sentence

279 IPC

Rigorous imprisonment for a period of three months with fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for one month.

|         |                                                                                                                                                                    |
|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 337 IPC | Rigorous imprisonment for a period of three months with fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for 15 days.  |
| 338 IPC | Rigorous imprisonment for a period of six months with fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. |

However, all the substantive sentences were ordered to run concurrently.

Briefly stated, a case bearing FIR No.147 dated 19.12.2002 under Sections 279, 337 and 338 IPC was registered at Police Station Rampura on the basis of statement made by complainant Kuldeep Singh. In his statement, the complainant had alleged that on 18.12.2002, Bhim Singh son of Rattan Singh went to the shop of his father to have television and VCR on rent. Since the television was not functioning well, the complainant along with Bhim Singh went for repairing the same on a motorcycle at about 11.30 p.m. When they reached near Rampura turn, a tanker bearing registration No.HR-47-1672, being driven by the accused (petitioner herein) in a rash and negligent manner, came there from Narnaul side and struck the motorcycle. As a result, both of them fell down and sustained injuries.

On the basis of statement of the complainant, the aforementioned FIR was registered. Statements of witnesses were recorded by the police. Site plan was prepared and the petitioner-accused was arrested. After completion of investigation, Challan was presented in the

Court. Copy of challan was supplied to the petitioner-accused free of cost as envisaged under Section 207 Cr.PC. Thereafter, the accused was charge-sheeted by the trial Court for the commission of offence under Sections 279, 337 and 338 IPC to which he did not plead guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as 12 witnesses including complainant Kuldeep Singh as PW10 and injured Bhim Singh as PW1. Thereafter, the statement of accused under Section 313 Cr.PC was recorded wherein he denied the allegations levelled against him. However, he did not lead any evidence in his defence.

Considering the evidence available on record and after hearing the rival contentions of both the parties, learned trial Court vide its judgment dated 19.07.2007 and order dated 20.07.2007 had convicted and sentenced the petitioner in the manner as stated above.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Rewari vide judgment dated 19.08.2008.

It is in these circumstances that the petitioner has filed the present revision petition challenging the verdicts of the Courts below.

During the course of arguments, learned counsel for the petitioner has not challenged the conviction of petitioner and has confined his arguments qua the quantum of sentence only. She has contended that as against the awarded sentence of six months, the petitioner has already

undergone imprisonment for a period of 3 months and 12 days including remission of 4 days. There is no other criminal case pending against him. She has further contended that the petitioner is a first time offender. The FIR in question was registered against him on 19.12.2002 and since then, he has been suffering the agony of criminal proceedings. Thus, she has prayed that sentence of the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel has not disputed the custody of the petitioner, but opposed the plea of taking liberal view, as raised by learned counsel for the petitioner. The custody certificate produced by learned State counsel in the Court today, is taken on record.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 279, 337 and 338 IPC. The appellate Court has also rightly dismissed the appeal. There is no illegality, infirmity or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, during the course of arguments, learned counsel for the petitioner has not assailed the judgments of conviction and restricted her arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

However, as regards plea of the petitioner that he is a first time

offender; no other case is pending against him; has been suffering the agony of criminal proceedings since 19.12.2002, the date when the FIR in question was registered against him, and as against the awarded sentence of six months, he has already undergone 3 months and 12 days including remission of 4 days, this Court finds justification with the prayer made by learned counsel for the petitioner for reduction of sentence of the petitioner to the period already undergone by him.

Therefore, taking into consideration the submissions raised by learned counsel for the petitioner, this Court feels that the ends of justice would be met in case the sentence awarded to the petitioner is reduced to the period already undergone by him. Ordered accordingly.

However, it is made clear that the sentence qua fine imposed upon the petitioner shall remain intact.

With the aforementioned modification in the quantum of sentence, the present revision petition stands dismissed.

**November 11, 2016**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No