

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

**CRR No.707 of 2012 (O&M)
Date of Decision: August 09, 2016**

Rajesh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Balraj Gujjar, Advocate
for the petitioner.

Mr.Vikas Chopra, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Kishori Lal against respondent State of Punjab, challenging the impugned judgment of conviction dated 23.09.2009 and order of sentence dated 24.09.2009 passed by learned Judicial Magistrate Ist Class, Bhiwani, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three months and to pay a fine of ₹250/- under Sections 279 and 337 IPC each and to undergo rigorous imprisonment for a period six months under Section 427 IPC and one year under Section 429 IPC along with fine of ₹250/- under each Section and in default of payment, to undergo rigorous imprisonment for a period of one month and also challenging the judgment dated 17.02.2012 passed by learned Addl. Sessions Judge, Bhiwani vide

which appeal filed by petitioner was dismissed. All the sentences were ordered to run concurrently.

From the record, I find that the challan was presented against petitioner in case FIR No.91 dated 01..06.2005. The brief facts of the case as noted down in the judgment passed by learned JMIC, Bhiwani, are as under:-

“Briefly stated, the facts of the present prosecution case are that on 31.5.2005 a doctor rukka along with MLR regarding admission of injured Polu Ram son of Shri Chand, resident of Rivasa at C.H.C. Bhiwani was received in the police station. It was mentioned on the rukka that the patient has been referred to General Hospital, Bhiwani by the doctor. When H.C. Chatter Singh was going to General Hospital, Bhiwani, Shri Net Ram, uncle of the injured Polu Ram told him that the patient has been taken to Metro hospital, Hissar. After that on 01.06.2005, H.C. Chatter Singh along with Constable Ishwar Singh reached at Matro Hospital, Hissar and moved an application to the doctor of taking his medical opinion regarding fitness of the injured, on the said application doctor gave his opinion that the injured is not fit to give statement. After that statement of complainant Surender @ Gopi Ram son of Shri Chand was recorded, who in his statement submitted that on 31.05.2005 at about 8:00 P.M. he along with his brother Rajesh son of Shri Chand were coming back to their village on their camel cart. Polu Ram son of Shri Chand, his brother was also walking behind his camel cart. When they along with their camel carts reached near Neeraj Petrol Pump, Tosham Road, Bhiwani, in the meantime a Pick Up Dalls bearing registration No. DL-2CF/1031, driven by its driver Rajesh son of Rajmal resident of village Ladwa P.S. Sadar Hissar, rashly and negligently came and caused accident with the camel cart of Polu Ram from its back side. His brother fell down from his camel cart and suffered lot of injuries. His camel cart also damaged. Thereafter, the driver ran away from the spot. He and his brother Rajesh, brought Polu Ram to C.H.C. Tosham, from where he was referred to General Hospital, Bhiwani but they took him to Metro Hospital, Hissar. He prayed for taking legal action against the accused. On the basis of statement of complainant case under Section 279, 337, 427 & 429 Indian Penal Code was registered against the accused. Police initiated the investigation. On completion of the investigation challan was presented before the Court.”

Learned JMIC, Bhiwani, after appreciating the evidence,

convicted and sentenced the petitioner as stated above. An appeal was filed and learned Addl. Sessions Judge, Bhiwani dismissed the appeal vide judgment dated 17.02.2012.

Aggrieved from the above-said judgments, present revision petition has been filed.

Notice of motion was issued and learned State counsel appeared and contested the petition.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is first offender, poor person, only bread earner of the family. He further contended that petitioner is suffering from criminal proceedings since 2005 and he has already undergone actual sentence of 3 months 14 days including remission.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that findings given by both the Courts below are as per evidence and law. In no way, the impugned judgments passed by the Courts below can be held as perverse. Nothing has been pointed out as to which material evidence has not been considered or which material evidence has been misread by the Courts below.

As regarding the prayer for reduction of sentence, keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is first offender, only bread earner of the family and is suffering from long protracted criminal proceedings since 2005 i.e. for the

last about 11 years and has already undergone actual sentence of 3 months

and 14 days including remission of 4 days out of the total sentence, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and default thereof, shall remain the same. As argued, fine has already been paid.

Resultantly, the present revision petition stands partly allowed.

Since, petitioner Rajesh is on bail, his bail/surety bonds stand discharged.

August 09, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No