

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

Criminal Revision No.1248 of 2016(O&M)

Date of Decision: 25.04.2016

Sital Singh

....Petitioner(s)

Versus

State of Punjab

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr.Vishal Aggarwal Advocate for the petitioner(s).

Mr.Sultan Singh Gill, DAG, Punjab.

HARI PAL VERMA, J. (ORAL)

The petitioner has filed the present revision petition challenging the judgment dated 15.03.2016 passed by learned Sessions Judge, Rupnagar, whereby the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 29.10.2014 passed by learned Judicial Magistrate Ist Class, Rupnagar in case FIR No.41 dated 12.04.2011 under Sections 279, 337, 338 and 427 IPC, registered at Police Station, Singh Bhagwantpur, was dismissed.

The learned trial Court vide judgement and order dated 29.10.2014 had convicted and sentenced the petitioner as under:-

<i>Under Section 279 IPC</i>	<i>To undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.500/- and in default payment of fine, to further undergo simple imprisonment for ten days.</i>
<i>Under Section 337 IPC</i>	<i>To undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.500/- and in default payment of fine, to further undergo simple imprisonment for ten days.</i>
<i>Under Section 338 IPC</i>	<i>To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- and in default payment of fine, to further undergo simple imprisonment for ten days.</i>
<i>Under Section 427 IPC</i>	<i>To undergo rigorous imprisonment for a period of six months.</i>

It was, however, ordered by the trial Court that all the sentences shall run concurrently.

As per the facts of the case, present petitioner-Sital Singh has been challaned in case FIR No.41 dated 12.04.2011 under Section 279, 337, 338, 427 IPC, Police Station, Singh Bhagwantpur, which was registered on the statement of Sukhwinder Pal complainant. On 12.04.2011, a call was received from Police Chowki, PGI, Chandigarh, regarding admission of injured-Sukhwinder Pal and Sunil. On this, the Investigating Officer reached PGI, Chandigarh and took the opinion of doctor regarding the fitness of injured. Thereafter, statement of Sukhwinder Pal was recorded. He stated that he is working as JE in PSEB Department, Mianpur. On 11.04.2011, he along with Sunil Nagpal, who is also his colleague were returning from Chandigarh for going to Rupnagar on Maruti Wagon R No.PB-74-4263. He was driving the vehicle and Sunil Nagpal was on co-

driver seat. When they reached near Charheri, it was about 9.15/9.30 p.m., one truck No.PB-10-BK-0795 came from the side of Rupnagar at a high speed driven rashly and negligently and struck against their car from the front side. Because of this accident, both of them received injuries and their car was also damaged. Firstly, they were taken to Civil Hospital, Kurali and then referred to PGI, Chandigarh. This accident took place due to rash and negligent driving of truck No.PB-10-BK-0795. The driver of the truck left his vehicle on the spot and ran away from there. On the basis of this statement, present FIR was registered. The Investigating Officer visited the spot and after investigating the spot, prepared the site plan. He recorded the statements of witnesses. Accused Sital Singh was arrested in this case on 13.04.2011. Both the vehicles involved in the accident were mechanically tested. Photographs which were taken on the spot, were taken into police possession. The medical record of the injured was also collected. After completion of entire investigation, challan was presented in the Court.

On presentation of challan, copies of documents were supplied to the accused free of cost. The trial Court after going through the documents relied upon by the prosecution and on finding a prima-facie case for commission of offence punishable under Sections 279, 337, 338 and 427 IPC, framed the charges accordingly against the petitioner-accused, to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined 12 witnesses and thereafter, statement of accused under Section 313 Cr.P.C. was recorded by the trial Court. However, no defence evidence was led by the petitioner-accused and the trial Court, after hearing the case, had convicted and sentenced him in the manner described hereinabove.

Against the said verdict of the trial Court, the petitioner had preferred an appeal, but the lower appellate Court had affirmed the findings of the trial Court and dismissed the appeal of the petitioner, vide judgment dated 15.03.2016.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition

Learned counsel for the petitioner without arguing the case on merits has confined his arguments qua quantum of sentence only and, as such, this Court had issued notice of motion on the point of quantum of sentence only vide order dated 30.03.2016.

Learned counsel for the petitioner contends that against the awarded sentence of six months, the petitioner is in custody for about 01 month and 08 days and is facing the agony of trial since 12.04.2011, the date when FIR was registered. He further submits that the petitioner-accused is a poor person and is the only bread earner of his family. He further contends that the petitioner is a first time offender and prays for a lenient view by considering long pendency of the proceedings as well as the fact

that there is no other criminal case pending against him. He, therefore, prays that the sentence of the petitioner be reduced to the period already undergone by him. He further submits that the petitioner-accused is ready to compensate the injured-victim.

Learned counsel for the State has filed the custody certificate of the petitioner-accused, which is taken on record. He does not dispute the custody and that there is no other criminal case pending against the petitioner-accused. However, he vehemently argued that the petitioner has caused the accident, therefore, no liberal view should be taken against him.

I have heard learned counsel for the parties and have gone through the paper book.

The Hon'ble Supreme Court in a recent judgment in **State of M.P. Versus Mehtaab 2015(1) RCR (Criminal) 1008** has held that when the accused was found guilty of causing death by negligence, the High Court was not justified in reducing sentence of imprisonment to the period of 10 days without awarding any compensation to the legal heirs of the deceased. As such, the Apex Court while modifying the order passed by the High Court had held that the order of the High Court can be upheld only with the modification that the accused will pay compensation to the heirs of the deceased. This judgment was also followed by this Court in **Criminal Revision No.1761 of 2015** decided on December 07, 2015 titled as **Kashmir Singh Versus State of Punjab**.

Considering the fact that the petitioner-accused is suffering the agony of trial since 12.04.2011 and as against the total sentence of 06 months, he has remained in custody for about 01 month and 08 days coupled with the fact that there is no case pending against him, the conviction of the petitioner-accused is upheld, but the sentence is reduced to the period already undergone by him.

However, this Court, in the light of judgment of Hon'ble Superme Court in Mehtaab's case (supra) directs the petitioner to pay compensation of Rs.40,000/- to the injured-victim.

Accordingly, the petitioner be released from custody forthwith, if not required in any other case, subject to his depositing of Rs.40,000/- with the trial Court. The trial Court shall disburse the amount of compensation to the injured-victim.

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

(HARI PAL VERMA)
JUDGE

April 25, 2016
'Anjal'