

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

CRR No.1535 of 2016 (O&M)
Date of Decision: July 14, 2016

Sharif

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sarfraj Hussain Advocate
for the petitioner.

Mr.D.R.Singla, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sharif against respondent State of Haryana, challenging the impugned judgment of conviction dated 19.09.2015 and order of sentence dated 21.09.2015 passed by learned Judicial Magistrate Ist Class, Palwal, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹300/- and in default of payment of fine, to undergo simple imprisonment for a period of two months under Section 332 IPC and to further undergo rigorous imprisonment for a period of six months and to pay fine of ₹200/- and in default of payment of fine, to undergo simple imprisonment for a period of one month under Section 353

IPC and also challenging the judgment dated 16.03.2016 passed by learned

Addl. Sessions Judge, Palwal, vide which appeal filed by petitioner was dismissed. Both the sentences were ordered to run concurrently.

At the time of preliminary hearing, 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.

Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioners in case FIR No.276 dated 29.07.2011 under Sections 186, 332, 353, 506 read with Section 34 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Palwal, are as under:-

“2. Brief facts of the prosecution case are that on 29.07.2011 ASI Desh Raj received a information regarding the admission of injured Roshan Lal Clerk in the Hospital. On which, ASI Desh Raj along with HC Suresh Kumar reached G.H. Palwal where they met with injured Roshan Lal Clerk who presented a written complaint to the effect that on 29.07.2011 at about 3:00 PM he along with the officials RTO Virender Singh, Rajesh Kumar Clerk, KaramPal Driver along with government vehicle no. HR-36G-0020 for checking the over loaded vehicles. After checking the truck no. HR-55G-9364 a another truck is coming from the side of Hodal and the same was stopped by them nearby D.C. Camp office which bears the registration no. HR-55L-7577. On checking the same, the truck was found 19 MT over loaded from the prescribed load. After making the challan of the said truck my senior officers sent him alongwith the said truck for impounding the same in the Police Post Bus Stand. When he took the said truck along with his driver to the police post, then truck driver called 7-8 persons through his mobile and he stopped the truck near about Agra Choke. In the mean while, said 7-8 persons were reached on the spot and accused driver alongwith above said unidentified 7-8 persons started biting him and one of them has also fired a gun shot on him. On receiving the information regarding the said scuffle, RTO and other concerned officials reached on the spot and rescued him and took to the hospital. The truck driver and 7-8 persons were also snatched a gold chain and Rs.200/- and run away from the spot along with the offending truck.

While fleeing from the spot, they also threatened him that if in future their truck tried to be stopped then they will kill them. A Penal action has requested.

3. On receiving said compliant Ex. PW3/A and after taking the MLR regarding injured, the present case FIR no. 276 dated 29.07.2011 was registered and matter was investigated. Statement of witnesses under Section 161 of Cr.P.C. were recorded. Site plan of the occurrence place was prepared. Accused person was arrested. Site plan drawn. Statement of witnesses have been recorded. During course of investigation, on finding no offence against the accused under Section 356, 307 and Section 25 of Arms Act, the same was removed with against him. During investigation, no other person was found involved in the alleged offence. After completion of investigation, challan was presented in the court against accused Sharif.”

Learned JMIC, Palwal, after appreciating the evidence, convicted and sentenced the petitioners as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Palwal vide judgment dated 16.03.2016.

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

Learned counsel for the petitioner argued that petitioner is 60 years old man and has five children to look after as there is no other family member to look after them. He further contended that petitioner is first offender and suffering from the criminal proceedings for the last about five years and has already undergone actual sentence of about four months.

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

Keeping in view the facts and circumstances of the present case and in view of the facts that petitioner is first offender and is suffering from long protracted criminal proceedings since 2011 i.e. for the last about 5

years; the petitioner has already undergone imprisonment of about four months 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 in default thereof, will remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioner Sharif, who is in custody, be released forthwith if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

July 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE