

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

CRR No.3416 of 2015 (O&M)
Decided on:-November 10, 2016.

Ikram.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Balkar Singh, 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 26.8.2015 passed by learned Additional Sessions Judge, Yamuna Nagar, whereby his appeal filed against the judgment of conviction dated 12.2.2014 and order of sentence dated 13.2.2014 passed by learned Judicial Magistrate 1st Class, Yamuna Nagar, was dismissed.

Learned Magistrate vide judgment dated 12.2.2014 convicted the petitioner for offence punishable under Sections 279, 337 and 338 IPC and vide separate order dated 13.2.2014, sentenced him as under:

<u>Under Section</u>	<u>Sentence</u>
279 IPC	Simple imprisonment for a period of three months with fine of Rs.250/-.
337 IPC	Simple imprisonment for a period of three months with fine of Rs.250/-.

338 IPC

Simple imprisonment for a period of six months with fine of Rs.500/-.

It was further ordered that in case of non-payment of fine by the accused, he shall undergo simple imprisonment for two days. However, all the substantive sentences were ordered to run concurrently.

Briefly stated, a case bearing FIR No.505 dated 22.12.2007 under Sections 279, 337 and 338 IPC was registered at Police Station City Yamuna Nagar on the basis of statement made by complainant EHC Satish Kumar. In his statement, the complainant had alleged that on 22.12.2007 at about 5.30 p.m., he along with EASI Babu Ram was present at Vishawkarma Chowk in connection with traffic duty. In the meantime, a truck bearing registration No.HR-02GA-0037 came from Saharanpur side which was being driven by its driver in a rash and negligent manner. The truck directly hit against EASI Babu Ram, who was standing on traffic point. Resultantly, he fell down and then driver of the said truck fled away from the spot. Constable Mohan Lal and EHC Daryal Singh reached the spot and they took the injured to Civil Hospital, Yamuna Nagar for treatment.

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 8 witnesses including complainant ASI Satish Kumar 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 examine any witness in his defence.

Considering the evidence so adduced, the trial Court vide its judgment dated 12.2.2014 and order dated 13.2.2014 had convicted and sentenced the petitioner in the manner as mentioned 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, Yamuna Nagar vide judgment dated 26.8.2015.

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. He has contended that as against the awarded sentence of six months, the petitioner has already undergone imprisonment for a period of 27 days as actual sentence. There is no other criminal case pending against him. He has further contended that the petitioner is a first time offender. He is a poor person and the sole bread

earner of his family. The FIR in question was registered against him on 22.12.2007 and since then, he has been suffering the agony of criminal proceedings. Thus, he 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.

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 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 his 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 22.12.2007, the date when the FIR in question was registered against him, and as against the awarded sentence of six months, he has already undergone 27 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. Perusal of the order of sentence dated 13.2.2014 shows that the fine has already been paid by the petitioner.

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

November 10, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No