

Criminal Revision No.3916 of 2015 (O & M)
Date of Decision: February 05, 2016

Kaushal Singh

..... PETITIONER

VERSUS

State of Punjab & another

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: Mr. Prashant Bansal, Advocate, for the petitioner.

Mr. J.S. Sekhon, Assistant Advocate General, Punjab.

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Jaspal Singh, J

1. The instant petition has been preferred by Kaushal Singh against judgment dated September 14, 2015 passed by the Additional Sessions Judge, Patiala whereby judgment of conviction and order of sentence dated December 12, 2014 rendered by the Judicial Magistrate 1st Class, Rajpura, in case FIR No.148 dated August 1, 2008 under Sections 279, 338 IPC, Police Station, Sadar Rajpura, District Patiala,

has been upheld. The petitioner was convicted and sentenced by the trial court under Section 279 IPC to undergo RI for six months, fine ₹ 500/-, in default of payment of fine, to undergo RI for 10 days; and under Section 338 IPC to undergo RI for one year, fine ₹ 1,000/-, in default of payment of fine, to undergo RI for 15 days.

2. Briefly stated, the facts of the prosecution case are that present case was registered on the basis of statement of Hardeep Singh son of Bagga Singh, resident of Fatehpur Seona, Police Station Mandi Gobindgarh, District Fatehgarh Sahib. He stated that he is employed as driver in New Fatehgarh Bus Service. He was going from Ambala to Ludhiana after boarding passengers in the bus bearing registration No.PB-23C-2397. At about 4:00 PM, when he was behind Namdhari Petrol Pump, a truck bearing No.HR-56B-0911, being driven by Kaushal Singh in a rash and negligent manner, collided with the aforesaid bus, as a result of which, passengers who were travelling in the bus sustained injuries. The bus was also damaged. The injured were admitted in Rajindra Hospital, Patiala. After recording the statement of complainant, he signed the same. ASI Gurcharan Singh made his endorsement on the same and sent it to Police Station for registration of case, on the basis of which, the present FIR was registered. Site plan was prepared. Statements of witnesses under Section 161 Cr.P.C. were recorded. Accused was arrested.

3. After completion of investigation, challan against the accused was presented in the court of jurisdictional Magistrate. He was

supplied the copies of police report and other documents appended therewith as required under Section 207 Cr.P.C. Finding a prima facie case against the accused, he was charge-sheeted under Sections 279, 338 IPC, to which, he claimed not guilty and claimed trial.

4. In order to prove its case, prosecution examined as many as 9 witnesses. Incriminating circumstances appearing in the prosecution evidence were put to accused in his statement under Section 313 Cr.P.C., who denied the same and pleaded his innocence. No evidence was led by the accused in his defence.

5. After hearing learned counsel for the parties and having gone through the material available on record, accused was held guilty under Sections 279 and 338 IPC. Accordingly, he was convicted and sentenced, as detailed to above. Appeal preferred by accused – petitioner Kaushal Singh also failed before the lower appellate court. In this backdrop of facts, instant revision petition has been preferred by the accused – petitioner challenging the aforesaid judgment(s)/order(s).

6. While issuing notice of motion on December 14, 2015, learned counsel did not press the petition on merits and submitted that the present revision petition may be considered only for the limited purpose of reduction of sentence. Accordingly, conviction of the petitioner was upheld and notice of motion was issued only for quantum of sentence. This court has also scrutinised the impugned judgments as well as the relevant documents/evidence and is of the considered view that there is no scope for any interference in the

impugned judgment(s) as far as the conviction of petitioner under Sections 279, 338 IPC is concerned.

7. As far as quantum of sentence is concerned, learned counsel for the petitioner has submitted that petitioner is 35 years of age. He has asserted himself to be first offender. No other case of similar nature is either pending or disposed of against the petitioner. He is the only bread winner in the family. He never misused the concession of bail during trial. He has already undergone a period of more than 5 months, out of substantive sentence of one year. Accordingly learned counsel for the petitioner prays that sentence imposed upon the petitioner be reduced to the period already undergone.

7. This Court has given an anxious thought to the submissions made by learned counsel and have gone through the record available on file.

8. As per the custody certificate dated February 4, 2016, the petitioner has already undergone more than 5 months (including remission) out of total sentence of one year.

9. In similar circumstances, the Hon'ble Apex Court in case **Harjit Singh v. State of Haryana, (2002) 10 SCC 695** had reduced the sentence of 7 years under Section 25 of the Arms act as already undergone. To the same effect is the judgment in case **Kirpal Singh v. State of Punjab, 2009(1) AICLR 243**, whereby this Court had reduced the sentence of petitioner to already undergone, taking into consideration the fact that petitioner has three children – there is no one to look after his family – petitioner has already undergone sentence of

more than 5 months out of total sentence of one year. In cases **Jagdeep Singh @ Neetu v. State of Punjab, 2013(2) Law Herald 1849**; **Surjit Singh v. State of Punjab, 2003(2) RCR (Criminal) 429**; **Sudhir v. State of Haryana, 2001(2) RCR (Criminal) 336**; and **Chhotu Ram v. State of Haryana, 2013(4) RCR (Criminal) 630**, similar view has been adopted.

10. Taking into consideration the totality of facts and circumstances, though, conviction of the appellant is upheld but the sentence imposed upon him under Sections 279 and 338 IPC is reduced to the period already undergone by him.

11. With the above modification in the sentence, revision petition is dismissed and petitioner is ordered to be released forthwith.

February 05, 2016
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(Jaspal Singh)
Judge