

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

CRR No.2944 of 2016 (O&M)
Date of Decision: October 06, 2016

Assa Ram

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.S.Sullar, Advocate
for the petitioner.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Assa Ram against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 19.11.2015 passed by learned Judicial Magistrate Ist Class, Abohar, vide which the petitioner was convicted and sentenced to rigorous imprisonment for a period of one year and to pay fine of ₹1000/- and in default of payment, to undergo rigorous imprisonment for a period of one month under Section 338 IPC and further to undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of 15 days under Sections 279 and 337 IPC each and also challenging the judgment dated 08.07.2016 passed by learned

Addl. Sessions Judge, Fazilka, vide which appeal filed by petitioner was dismissed. All 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 petitioner in case FIR No.75 dated 07.07.2011. The brief facts of the case as noted down in the judgment passed by learned JMIC, Abohar, are as under:-

“2. Brief facts of the case of the prosecution is that on 10.01.2011 a telephonic information was received to the effect that one accident has taken place between one Mopad and a Jeep near village Rajpura and injured Neeru and Ravi Makkar are admitted in Civil Hospital Matili where injured were not present. On 11.07.2011 and 12.07.2012 he went to Tatia Hospital for recording statement of the injured but the doctor declared the injured unfit for giving statement. On 17.07.2011, ASI Vinod Kumar reached Tatia Hospital for recording the statement of injured but the doctor declared the injured Ravi Makkar and Neeru unfit for giving statement. However, at that time Raman Kumar son of Krishan Kumar, resident of Ward No. 11, who was present at the time of occurrence, met him and got his statement recorded to the effect that on 10.07.2011 at about 6.30 PM his uncle Ravi Makkar alongwith his daughter Neeru was going on a Mopad bearing No. PB 15-D-4113 from Abohar to Matili and Neeru was driving the Mopad. He alongwith Narinder Kumar son of Amar Nath, resident of Matili was also following them on a motorcycle which was being driven by him. When his uncle Ravi Makkar and his daughter Neeru reached in front of Rajpura Pump then from front side a Jeep bearing No. RJ 31C-0099 came in a very high speed which was being driven by accused Assa Ram son of Ganga Ram, resident of Dhani Ahihra Wali Dakhli while talking on a mobile. After driving the Jeep from wrong side, the accused hit the Mopad of his cousin Neeru and on this Neeru and her father Ravi Makkar fell down and both legs of

Neeru were broken and Ravi Makkar also sustained injuries. He and Narinder Kumar stopped their motorcycle and looked after Neeru and Ravi Makkar and thereafter they arranged vehicle and got the injured admitted in Civil Hospital Matili where the doctor referred them due to serious injuries. Then they got admitted the injured in Ganganagar hospital and both are still in Coma. Their other relatives reached and looked after them. Due to some business work, he was out of station, now he came to enquire about the health of the injured. After recording the statement of the complainant, the present FIR under sections 279/337/338/427 IPC was registered against the accused.

3. During investigation, Mopad and Jeep in question were taken into police possession. Site plan prepared. Copy of RC and Copy of driving license in the name of accused were recovered. Accused was arrested, personal search of accused was conducted. Test report of both the vehicles were obtained. Photographs of the spot of occurrence were got clicked. Statements of witnesses under section 161 Cr.P.C were recorded. After completion of necessary formalities, police report under section 173 Cr.P.C prepared and challan for the offence under sections 279/337/338/427 IPC against the accused has been presented before the Court.”

Learned JMIC, Abohar, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Fazilka, vide judgment dated 08.07.2016.

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

Learned counsel for the petitioner argued that petitioner is first offender, only bread earner of the family and he is suffering from the criminal proceedings since 2011.

I have heard learned counsel for the petitioner 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 fact that the petitioner is first offender, only bread earner

of the family and in view of the fact the petitioner is suffering from long protracted criminal proceedings since 2011 i.e. for the last about five years, the sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of four months instead of one year under Section 338 IPC. However, the other sentence, sentence of fine and in default thereof, will remain the same. All the sentences shall run concurrently.

With the above-said modification in the sentence, the present revision petition stands dismissed.

October 06, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No