

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

Criminal Revision No.4197 of 2015 (O&M).
Decided on:-April 04, 2016.

Daljinder Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

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

Present:- Mr. Jitender Singh Dadwal, Advocate
for the petitioner.

Mr. Gurinderjit Singh, Deputy Advocate General, Punjab
for the respondent-State.

HARI PAL VERMA, J.

Petitioner Daljinder Singh (now confined in Central Jail, Gurdaspur) has filed the present revision petition challenging judgment dated 27.8.2015 passed by learned Additional Sessions Judge, Gurdaspur, vide which the criminal appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 9.7.2013 passed by learned Judicial Magistrate 1st Class, Batala, was dismissed.

Learned Magistrate vide judgment dated 9.7.2013 acquitted the petitioner under Sections 337, 338 and 427 IPC, but convicted him under Section 304-A IPC and vide separate order of even date, sentenced him to

undergo rigorous imprisonment for two years and to pay fine of Rs.2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one month.

However, the period of detention already undergone by the convict during enquiry, investigation or trial was ordered to be set off against the substantive sentence as envisaged under Section 428 Cr.P.C.

Briefly stated, the case of the prosecution is that on 14.1.2004 ASI Sukhwinder Singh along with HC Satnam Singh was present at Aliwal Police Post. They received information that an accident between a truck and Tata Sumo had taken place and the injured had been brought to the civil hospital by the public and some of the injured were critical. On this information, the police reached the said hospital and found that Dhana Singh son of Swaran Singh, resident of Naushera Majja Singh and Victor Masih, driver of Tata Sumo, had died on the way whereas remaining injured were hospitalised.

Statement of injured Rajwant Singh was recorded by the police, who told that it was about 7.30 a.m. when the accident had occurred. The offending vehicle i.e. truck bearing registration No.PB-11G-9754 came from the side of Ghanie Ke Banger at high speed in negligent manner and hit Tata Sumo bearing registration No.HR-01E-5187 in which the complainant was travelling. The Tata Sumo was crushed and the occupants were seriously injured. While Dhana Singh and Victor Masih succumbed to their injuries on

the way to hospital, other occupants received injuries.

On the basis of aforesaid statement, FIR No.7 dated 14.1.2004 under Sections 279, 337, 338, 427 and 304-A IPC was registered against the petitioner-accused at Police Station, Ghanie Ke Banger. After completing the formalities of investigation, Challan against the accused was prepared and 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 337, 338, 427 and 304-A IPC to which he did not plead guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as 9 witnesses including complainant Rajwant Singh as PW2 and eye witness Tarsem Singh as PW4. Thereafter, the statement of accused under Section 313 Cr.PC was recorded wherein he denied the allegations levelled against him. However, he did not lead any evidence in his defence.

Considering the evidence so adduced, the trial Court vide its judgment and order dated 9.7.2013 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 learned Additional Sessions Judge, Gurdaspur, but the same did not find favour with the petitioner and was, accordingly, dismissed vide judgment dated

27.8.2015.

It is in these circumstances that the petitioner has filed the present revision petition challenging the verdicts of the Courts below.

In view of order dated December 04, 2015 passed by this Court, whereby notice of motion was issued for hearing the petitioner on quantum of sentence only, learned counsel for the petitioner has confined his arguments qua the quantum of sentence only. He has contended that as against the awarded sentence of two years, the petitioner is in custody for the last more than 1½ years. He has prayed that sentence of the petitioner may be reduced to the period already undergone by him as this criminal trial is hanging on his head for the last more than twelve years, because the FIR in question was registered on 14.1.2004, and it should be a sufficient mitigating circumstance to treat him leniently.

Learned counsel for the petitioner has further submitted that the petitioner is a poor person and is only bread earner for his family. There is no other case pending against the petitioner and the legal heirs of deceased Dhana Singh as well as Victor Masih have already been suitably compensated by the Motor Accidents Claims Tribunal under the Motor Vehicles Act, 1988.

On the other hand, learned State counsel has produced custody certificate of the petitioner, which is taken on record. Though learned State counsel has not disputed the custody of petitioner Daljinder Singh, but

opposed the plea of taking liberal view, as raised by learned counsel for the petitioner.

I have heard learned counsel for the parties.

Since the present revision petition has not been contested by the petitioner on merits and learned counsel for the petitioner has restricted his arguments qua the quantum of sentence only, the impugned judgments dated 9.7.2013 and 27.8.2015 passed by the trial Court and the appellate Court respectively, are upheld.

However, taking into account the protracted trial, antecedents of the petitioner-accused and the fact that as against the total sentence of two years, he has suffered incarceration for a period of more than one year and six months, this Court feels that the ends of justice would be met in case the sentence awarded to him is reduced to the period already undergone by him. Ordered accordingly.

The petitioner be released from custody forthwith, if not required in any other case.

With the aforesaid modification, the present revision petition stands dismissed.

April 04, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE