

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

**CRL. REVISION No.3215 OF 2016 (O&M)  
DATE OF DECISION : 5<sup>th</sup> OCTOBER, 2016**

**Krishan Kumar**

**.... Petitioner**

**Versus**

**State of Haryana**

**.... Respondent**

**CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI**

\* \* \* \*

Present :     Mr. Raman Chawla, Advocate for the petitioner.  
                    Mr. Karan Sharma, AAG, Haryana.

\* \* \* \*

**A. B. CHAUDHARI, J. (ORAL)**

Heard learned counsel for the rival parties.

Rule heard forthwith with the consent of counsel for the rival parties.

Custody certificate filed by the State is taken on record.

The revision petitioner was convicted by the trial Court for offence under Sections 279 & 337 IPC and Section 161 of the Railways Act, 1989, with the maximum sentence of three months and fine also.

The appellate Court reduced the sentence under Section 161 of the Railways Act, 1989 to three months from six months. With the result the total sentence awarded to the petitioner is three months. Learned counsel for the petitioner states that the fine has already been paid. If the fine amount is not paid the petitioner would pay the fine within eight weeks from today.

I have seen the reasons recorded by both the Courts in relation to the accident in question. The finding is that the petitioner had

tried to cross unmanned railway crossing and had in fact succeeded in part when at the last juncture the train hit the car on the back side and the driver of the train then made complaint, upon which the case was registered against the petitioner.

Learned State counsel submits that the petitioner by this time has undergone the sentence of one month two days, as per the custody certificate filed today in Court by the State counsel.

Undoubtedly, it is a matter of concern that on the unmanned or even manned railway crossings in the town and cities, the vehicle drivers have been taking very serious risk of crossing the railway line for going to the other side without waiting for the train to depart. This is the scenario in the entire country. The petitioner is one of such drivers who indulged into the act of crossing a railway line.

It is true that the petitioner was awarded sentence of three months but then he has already undergone the sentence of above one month and counsel for the petitioner on behalf of his client undertakes that hereinafter he would not cross the railway line. He has also learnt the lesson now. Be that as it may, I do not think that any fruitful purpose will be served by admitting the present revision petition and hearing it after number of years, particularly because the petitioner has already undergone the sentence of one month two days out of three months.

In that view of the matter, taking the pragmatic view of the matter, I think the following order will subserve the interest of justice:

**ORDER:**

- i) CRL. REVISION No.3215 OF 2016 is partly allowed.

- ii) The judgment and order of the courts below, convicting the petitioner for offence under Sections 279 & 337 IPC and Section 161 of the Railways Act, 1989, are confirmed.
- iii) The judgment and order of sentence convicting the petitioner are set aside and modified and the petitioner is sentenced to the period one already he has undergone namely 1 month 2 days.
- iv) The petitioner shall be released forthwith, if not required in any other case.

**5<sup>th</sup> OCTOBER, 2016**  
*'raj'*

**(A. B. CHAUDHARI)**  
**JUDGE**

|                            |     |     |
|----------------------------|-----|-----|
| Whether speaking/reasoned: | Yes | No  |
| Whether Reportable:        | Yes | No. |