

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

CRR-4604-2015 (O&M)

Date of Decision: February 16, 2016

HARJEET SINGH

....PETITIONER

VERSUS

THE STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. M.S. Rai, Advocate
for the petitioner.

Mr. P.S. Ghuman, Addl. A.G., Punjab.

NARESH KUMAR SANGHI, J.

Challenge in this criminal revision petition is to the judgment dated 02.09.2015 passed by learned Sessions Judge, Pathankot, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offences punishable under Sections 279, 337 and 338 IPC, recorded by learned Judicial Magistrate First Class, Pathankot, was rejected.

When the present criminal revision petition came up for hearing before this Court, then the learned counsel for the petitioner at the very outset contended not to challenge the conviction of the petitioner in view of the concurrent findings of both the Courts below. But taking into consideration the over all facts and circumstances of the case, the notice of motion was

issued with regard to quantum of sentence only. As a result thereof, Sh. P.S. Ghuman, learned Addl. A.G., Punjab has put in appearance.

Learned counsel for the parties are in unison that in view of the fact that the case is to be argued with regard to quantum of sentence only and as such, can be decided at this stage without calling the records from the Courts below.

Learned counsel contends that for the last about five years, the petitioner is facing agony of trial, appeal and the present revision petition; during the pendency of the trial and appeal, the petitioner was released on bail but he did not misuse the said concession; as many as five persons alleged to have received the injuries but only Abhinav was medico legally examined who had suffered the fracture on his right thigh; the petitioner is the first offender; and he has already suffered the incarceration for approximately six months and that during incarceration the petitioner has earned the jail remission of approximately twenty days which would reveal that the petitioner is in the process of improving himself.

Learned counsel for the State has not controverted the factual aspect raised by counsel for the petitioner. However, he submits that the Courts below have already taken a lenient view and awarded the adequate sentence, therefore, no interference

by this Court is called for, so far as the quantum is concerned.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Although the petitioner has opted not to challenge the petition on merits but to satisfy the conscience of this Court, the material available on record has been re-scanned and it is found that on 19.11.2011, when Suresh Kumar-informant along with his wife Shashi Dogra, son Abhinav, sister-in-law Vandana and her daughter Mahi was travelling in a Car bearing registration No.JK-02-AR-0110 and reached near Poultry farm within the revenue estate of village Kotli then one Trola was found going ahead of their car being driven by Suresh Kumar then suddenly a truck No.PB-02-N-9657 being driven by the petitioner rashly or negligently at a very high speed came from the rear side and hit the rear portion of the car being driven by Suresh Kumar-informant as a result thereof, the car being driven by Suresh Kumar went inside the Trola going ahead of the car. All the occupants of the car sustained injuries while Abhinav sustained grievous injury on his right thigh. After completion of the investigation, the charge-sheet was presented; charges were framed and after completion of the prosecution evidence, the petitioner was convicted and sentenced by learned trial Court.

The appeal filed by him was also dismissed. After going through the facts and circumstances of the case, this Court is also of the opinion that both the Courts have rightly convicted the petitioner for the offences punishable under Sections 279, 337 and 338 IPC and as such, the learned counsel representing the petitioner has correctly opted not to challenge the conviction of the petitioner.

There appears to be substance in the arguments of learned counsel for the petitioner when he submitted that except Abhinav, the remaining injured had received simple injuries on the non-vital parts on their persons; even Abhinav had sustained the grievous injury on the right thigh which has healed and all the injured are performing their routine pursuits; the petitioner has already suffered the incarceration for approximately five and a half months; the fact that the petitioner earned the remission during his custody in jail would reveal that he is in the process of improving himself; and that during the pendency of the trial and appeal, he was released on bail but he did not misuse the said concession.

Keeping in view the totality of the facts and circumstances of the case, the remaining substantive sentence of the petitioner is reduced to the period already undergone by him for all the three counts for which he was convicted and sentenced. The fine imposed by both the Courts and the

sentence passed in default thereof are sustained. Since Abhinav, a boy of twelve years, had suffered injury on his right thigh, therefore, the petitioner is directed to pay a sum of ₹25,000/- (Rupees twenty five thousand only) as compensation to injured Abhinav. The said amount of compensation shall be deposited by the petitioner with learned trial Court within one month on his releasing from the jail. In case the petitioner fails to comply with the direction issued by this Court for paying compensation, then the order of sentence passed by learned trial Court and affirmed by learned Appellate Court shall enure. After receipt of the amount of compensation, learned trial Court shall issue a notice to Suresh Kumar-informant, father of Abhinav, to move an application for withdrawal of the said amount as per norms.

With the above modification in the order of sentence, the petition is partly allowed. Since the petitioner is stated to be in jail, therefore, he be set at liberty at once if not required in any other case.

(NARESH KUMAR SANGHI)
JUDGE

February 16, 2016
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