

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

CRR-3515-2016 (O&M)

Date of decision : 26.10.2016

Mukesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Udeyveer Singh Rana, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

JITENDRA CHAUHAN, J.

The present revision petition is directed against the judgment and order dated 25.01.2016 passed by Judicial Magistrate First Class, Ganaur vide which the petitioner was convicted under Sections 279, 337, 338 and 427 of Indian Penal Code (in short 'IPC'); and the judgment dated 19.08.2016 passed by learned Sessions Judge, Sonipat vide which the appeal filed by the petitioner was dismissed.

The brief facts of the present case as noticed in the judgment passed by Lower Appellate Court are as under:-

“The facts of the case in brief were that FIR pertaining to instant case came into existence on the basis of statement, Ex.PW4/A of Krishan, the complainant. In the above mentioned statement the complainant had stated that on 09.12.2013 at about 4.00 p.m. when he along with his nephew Mohit was crossing the road at Ganaur Chowk, G.T.Road, Ganuar, a truck bearing registration No.HR-45B-0806 being driven in a

rash and negligent manner came from Ganaur side and hit Mohit and other persons standing on the road side. As per complainant, the said truck had also hit other vehicles, rickshaw and rehri etc. and then rammed into the pillar of Ganaur overbridge. According to complainant, the said accident was noticed by many persons who had gathered on the spot and that the driver of the said truck had ran away abandoning his truck at the spot. As stated by the complainant the registration number of the said truck was noted down and injured were taken to the hospital and intimation was given to the police. The complainant had also stated that the injured Mohit was referred to Delhi and other injured were referred to BPS Medical College, Khanpur.

The above mentioned statement Ex.PW4/A was endorsed by Head Constable Rajbir with his endorsement and formal FIR of this case was lodged. The investigation of this case was taken up by the police. The investigating officer during the course of investigation, inspected the spot, prepared the rough site plan of the place of occurrence, got the injured examined medico-legally and collected their medico-legal reports as well as x-ray reports. The offending vehicle was seized by the police along with its documents. The investigating officer had also arrested the accused. On completion of usual formalities of investigation, the report under Section 173 Cr.P.C. was filed in the Court.”

The accused was charged for the commission of the offences punishable under Sections 279, 337, 338 and 427 of Indian Penal

Code to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Head Constable Rajbir as PW1, Ved Parkash as PW2-, Ravinder as PW3, Krishan Kumar-complainant as PW4, Ramesh @ Pappu as PW5, Dr. Rakesh Phoughat, Medical Officer as PW6, Dr.Dheeraj Kumar, Medical Officer as PW7, HC Pardeep as PW8, Sunil as PW9, Dr. Riche Gupta as PW10, Janeshwar as PW11, Rameshwar as PW12, Mohit as PW13, Constable Jogender as PW14, Constable Ranbir as PW15, Dr. Ratnesh Singh as PW16 and ASI Rohtas as PW17.

After closure of the prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C. He pleaded innocence and alleged false implication.

However, in his defence the accused did not lead any defence and closed the defence evidence.

After appraisal of the evidence, the learned trial Court convicted and sentenced the accused as under:-

Offence	Sentence	Fine (Rs.)	In Default
279 IPC	Three months rigorous imprisonment	1000/-	Further simple imprisonment for one month
337 IPC	Three months rigorous imprisonment	500/-	Further simple imprisonment for one month
338 IPC	One year rigorous imprisonment	1000/-	Further simple imprisonment for one month
427 IPC	One year rigorous imprisonment	7500/-	Further simple imprisonment for three months

Feeling dis-satisfied, the accused preferred appeal before the Sessions Judge, Sonipat. Vide judgment dated 19.08.2016, the appeal was dismissed.

Still feeling dis-satisfied, the petitioner has challenged both the aforesaid judgments before this Court.

At the outset, learned counsel for the petitioner states that he does not challenge the judgment of conviction. However, he prays that a lenient view may be taken as regards the quantum of sentence imposed by the trial Court.

Even though the petitioner does not challenge the judgment of conviction, this Court has re-scanned the evidence and finds that judgments are in conformity with law. The factum of accident caused by the petitioner was proved by PW11, namely, Janeshwar and PW12, namely, Rameshwar. Both witnesses in their respective examination-in-chief had specifically and categorically deposed that the accused was driving the offending vehicle at the time of occurrence. The witnesses were cross-examined at length but nothing could be elicited from their testimony so as to discard the case of the prosecution. This being so, this Court finds that the judgments of conviction have been rightly passed.

On the other hand, the learned State counsel opposed the prayer of the accused and supported the judgment of conviction and order of sentence passed by the trial Court.

I have heard the arguments of the learned counsel for the parties and have carefully gone through the record of the case.

The prosecution case is fully proved by the statements of the prosecution. There is no flaw in the judgment of conviction. As such, the conviction of the petitioner for the offences punishable under Sections 279, 337, 338 and 427 IPC is affirmed.

As per the custody certificate the petitioner has already undergone actual sentence of 02 months and 15 days as on date out of substantive sentence of one year. The petitioner is the sole bread winner of his family and the occurrence took place in the year 2013. This Court feels that ends of justice would be met if the sentence of the petitioner is reduced from one year to the period already undergone by him. The petitioner shall pay a sum of Rs.75,000/-to all the three injured, to be shared by them equally, within a period of four months from today. The petitioner, who is stated to be in custody, be released forthwith, in case he is not required in any other case.

October 26, 2016

vanita

**(JITENDRA CHAUHAN)
JUDGE**

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No