

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 5050 of 2015
Date of decision : 02.03.2016

Salesh Kumar
....Petitioner

V/s

State of Haryana
....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sat Narain Yadav, Advocate for the petitioner.
Mr. Arun Luthra, AAG Haryana.

RAJAN GUPTA J.

Petitioner Salesh Kumar had been convicted by the
Judicial Magistrate Ist Class, Mahendergarh under sections 279, 337
& 338 IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
279 IPC	To undergo R.I. for six months.
337 IPC	To undergo R.I. for six months.
338 IPC	To undergo R.I. for one year and to pay fine of ₹1000/-.

All the sentences are ordered to run concurrently.

Petitioner preferred appeal before Sessions Judge,
Narnaul which was dismissed vide judgment dated 10.12.2015.
Feeling aggrieved against the judgments of both the courts below,
petitioner has approached this court through the instant Criminal
Revision.

Learned counsel for the petitioner at the outset states
that he is limiting his prayer only to the extent of reduction in the

sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 22.07.2011, complainant Kitabo made a complaint to the police that on the said date at about 4.00 P.M. she alongwith her daughter Sushma was going to Nohra from her house. When they reached near Nohra, at that time, bus bearing registration no. HR-66-3681 driven by the accused (petitioner herein) in a rash and negligent manner came from behind and struck against her. Resultantly, she came underneath the bus. Her daughter raised hue and cry and after some time her son Suresh came on the spot and pulled her out. The driver of said bus ran away from the spot. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 279, 337 & 338 IPC charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as eight witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. However, accused did not adduce any evidence in defence.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under sections 279, 337 & 338 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Sessions Judge, Narnaul on 10.12.2015.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is first offender and main bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated. According to learned counsel, petitioner has already undergone custody of three months till date.

Learned State counsel has already placed on record affidavit of Sanjay Singh, Superintendent of Prison, Narnaul,

according to which petitioner had undergone total custody including remissions of 01 month and 10 days as on 20.01.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to period already undergone by him. But the petitioner is burdened with a fine of ₹25,000/- to be paid as compensation to the injured-Kitabo. Ordered accordingly.

The amount of fine shall be deposited within three months from the date of receipt of certified copy of this order. However, in case aforesaid fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

March 02, 2016

Ajay

(RAJAN GUPTA)
JUDGE