

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

CRR No.1180 of 2015.
Decided on:-10.10.2017.

Balwan.

.....Petitioner.

Versus

The State of Haryana.

.....Respondent.

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

Present:- Mr. Rahul Vats, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 03.03.2015 passed by learned Sessions Judge, Fatehabad whereby his appeal against the judgment of conviction dated 01.08.2013 and order of sentence dated 02.08.2013 passed by learned Additional Chief Judicial Magistrate, Fatehabad, was dismissed.

Briefly stated, FIR No.141 dated 24.04.2009 under Sections 279, 336, 337 and 338 IPC was registered against the petitioner-accused at Police Station Sadar Fatehabad on the allegations that on 18.04.2009, complainant Sushil along with Sonu, Sunny, Shanker, Lala, Kuldeep, Ajay and Naresh were travelling by Scorpio vehicle bearing registration No.HR-39A-3845 being driven by the petitioner. At about 10.30 A.M., when they reached near

Dariyapur Bus Stand, the petitioner, who was in an inebriated condition, did not slow down the speed of the vehicle despite their request and hit a Maruti car coming from the opposite side. Thereafter, the petitioner hit a canter and lost the balance. The scorpio vehicle took 2-3 turns and the petitioner jumped out of the window of the vehicle. Complainant Sushil, Sonu, Naresh and Ajay got injuries in the accident.

The investigation was conducted by the police. The petitioner-accused was arrested and produced in the Court. Statements of witnesses were recorded and after completion of investigation, Challan was filed in the Court.

The copy of Challan as envisaged under Section 207 Cr.PC was supplied to the petitioner-accused. On finding a prima facie case against the petitioner, he was charge-sheeted under Sections 279, 337 and 338 IPC, to which he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 01.08.2013 convicted the petitioner for the commission of offence punishable under Sections 279, 337 and 338 IPC.

Vide separate order dated 02.08.2013, learned trial Court sentenced the petitioner-accused as under:

<u>Offence</u>	<u>Sentence</u>
Under Section 279 IPC	Rigorous imprisonment for six months.
Under Section 337 IPC	Rigorous imprisonment for six months and fine of Rs.500/- and in default thereof, to further undergo RI for seven days.
Under Section 338 IPC	Rigorous imprisonment for two years and fine of Rs.1,000/- and in default thereof, to further undergo RI for fifteen days.

It was, however, ordered that all the substantive sentences of imprisonment shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 03.03.2015 passed by learned Sessions Judge, Fatehabad, appeal of the petitioner was dismissed.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

At the outset, learned counsel for the petitioner has not challenged the conviction of the petitioner and confined his submissions only for a lenient view regarding quantum of sentence. He has contended that as against the awarded sentence of two years, the petitioner has remained in custody from 03.03.2015 to 03.06.2015 and in this manner, he has already undergone imprisonment for 3 months and 1 day.

Learned counsel for the petitioner has further submitted that the petitioner is a first time offender and there is no other criminal case pending against him. He is a poor person having other family members to look after. He has been suffering the agony of criminal proceedings since 24.04.2009 i.e. the date when the FIR in question was registered against him. Thus, he has prayed that the sentence of the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel has not disputed the custody of the petitioner, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner. However, he states that there is

no other case against the petitioner. Custody certificate filed by learned State counsel in the Court, is taken on record.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 279, 337 and 338 IPC. The appellate Court has also rightly dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as against the awarded sentence of two years, the petitioner has already undergone imprisonment for 3 months and 1 day. He is a first time offender and there is no other case pending against him. He has been facing the agony of criminal proceedings since 24.04.2009 i.e. the date when the FIR in question was registered against him. Therefore, taking into account the protracted trial, antecedents of the petitioner coupled with the fact that he has already suffered incarceration for a period of more than three months, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

However, there will be no change in the sentence of fine. Perusal of the custody certificate reveals that the amount of fine has already been paid by the petitioner.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

October 10, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No