

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

**CRR No.2635 of 2016 (O&M)
Date of Decision: April 28, 2017**

Manish Monga

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms.Puja Chopra, Advocate
for the petitioner.

Mr.V.P.S.Sidhu, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Manish Monga against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 31.10.2014 passed by learned Chief Judicial Magistrate, Bathinda, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of seven days under Sections 279 and 337 IPC each and to further undergo rigorous imprisonment for a period of one year and to pay fine of ₹500/- and in default of payment of fine, to further undergo rigorous imprisonment for a

period of seven days under Section 338 IPC and also challenging the

judgment dated 14.07.2016 passed by learned Sessions Judge, Bathinda, vide which appeal filed by petitioner was dismissed. All the sentences were ordered to run concurrently.

From the record, I find that the challan was presented against petitioner in case FIR No.940 dated 04.08.2008. The brief facts of the case as noted down in the judgment passed by learned CJM, Bathinda, are as under:-

“2. Briefly stated, the facts of the prosecution case are that on 3.12.2008, a medical ruqa was received from civil hospital, Bathinda regarding admission of Kulwinder Singh son of Kartar Singh after having been met with an accident near Sepal Hotel, Bathinda. On this ASI Gurnam Singh reached at civil hospital, Bathinda and moved an application before the doctor for seeking opinion about the fitness of injured, but he was declared unfit to make the statement. On 4.12.2008, ASI Gurnam Singh alongwith HC Ajaib Singh and PHG Jasvir Singh went to civil hospital, Bathinda and after getting the opinion of doctor regarding fitness of patient, he recorded the statement of Kulwinder Singh to the effect that he works as a mason. Yesterday, on 3.12.2008, at 8.30 a.m., he was crossing the road on his motorcycle Kinetic Honda No.PB- 03L-4144 for going towards Sepal Hotel from Shakti Nagar. On the other side of the road, his father Kartar Singh was standing. When he was crossing the second side of the road after crossing the first side, then from the side of Canal Bridge, one car Ford bearing No.DL-3CK-0011 came in a high speed and negligently without blowing horn, which was driven by Manish Monga, resident of H.No.4413, Bank Bazar, Bathinda, and struck the same into his motorcycle, due to which he fell down from the motorcycle and received grievous injuries on his right leg below the knee and the toe of left foot. He raised rousa and his father rescued him and other people also gathered there. The car stopped there for some time and after that the accused fled away with the car. Thereafter his father and his brother Sukhwinder Singh admitted him in the civil hospital, Bathinda for treatment. After recording the statement of complainant Investigating Officer ASI Gurnam Singh sent ruqa to the police station for registration of FIR through PHG Jasvir Singh and instant FIR was registered. Thereafter ASI Gurnam Singh alongwith police party visited the place of occurrence and prepared rough site plan. Statements of witnesses were recorded. On 7.12.2008, ASI Gurnam Singh alongwith other police officials was present at police post, where Ganish

Kumar son of Ram Partap produced the accused Manish Kumar and Car Ford bearing No.DL-3CK-0011. Photographs of accidental car were got clicked from Naib Singh Photographer. Car No.DL-3CK-0011 was taken into police possession. Memos were attested by the witnesses. Accused Manish Kumar was arrested. His personal search memo and arrest memo were prepared. Accused was released on bail. On 18.12.2008, HC Gurpreet Singh mechanic produced the test report of accidental car and same was taken into police possession. Memos were attested by witnesses. After completion of investigation, final report under Section 173 Cr.P.C. was presented before the Court.”

Learned CJM, Bathinda, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Sessions Judge, Bathinda, vide judgment dated 14.07.2016.

Aggrieved from the above-said judgments, present revision petition has been filed by the petitioner.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings given by learned Courts below, regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that petitioner is first offender and suffering from the criminal proceedings since 2008 and has already undergone actual sentence of 2 months and 4 days.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 31.10.2014 passed by learned CJM, Bathinda, is correct, as per law and does not require any interference

from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is stated to be first offender and is facing long protracted criminal proceedings since 2008 i.e. for the last about 9 years and also in view of the fact that petitioner has already undergone actual sentence of 2 months and 4 days, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof, shall remain the same. The petitioner is directed to pay the fine within one month from the date of receiving the certified copy of the order, if already not paid, otherwise, the trial Court is directed to take necessary action as per law.

Therefore, the present revision petition stands partly allowed.

Since, petitioner Manish Monga is on bail, his bail/surety bonds stand discharged.

April 28, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No