

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

**CRR No.146 of 2017 (O&M)
Date of Decision : 08.11.2017**

Harjit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. A.S. Barnala, Advocate
for the petitioner.

Mr. Luvinder Sofat, Asstt. Advocate General, Punjab
for the respondent-State.

SUDIP AHLUWALIA, J. (ORAL)

Through the miscellaneous application bearing CRM No.1460 of 2017, the petitioner seeks suspension of sentence after his conviction in FIR No.173 dated 9th May, 2009 registered under Sections 279, 337, 427, 304-A of the Indian Penal Code (for short, 'the IPC') as sustained by the Ld. Additional Sessions Judge, SAS Nagar, Mohali vide the impugned judgment dated 25th July, 2016.

2. The sentences awarded to the petitioner for the offences under Sections 279, 304-A and 337 of the IPC were ordered to run concurrently and the maximum sentence was in respect of offence under Section 304-A for a period of 02 years (Rigorous

Imprisonment) apart from fine.

3. From the custody certificate dated 6th November, 2017, it transpires that by now the petitioner has undergone a total sentence in excess of 01 year and 06 months. He has therefore clearly served out the sentence awarded to him in respect of the offences under Sections 279 and 337 of the IPC.

4. As the LCR has already been received, and the basic ground on which the petitioner has challenged his conviction has been explicitly referred to and partially discussed by a Co-ordinate Bench in the earlier order passed on 20th April, 2017, this Court is of the opinion that at this stage the main matter itself can be disposed off.

5. From the Site Map of the place of occurrence which was marked Ex.PW-1/G by the Ld. Trial Court, it is seen that the accident in question had occurred at point 'A' situated in the middle of the fork-like bifurcation of the Chandigarh-Ludhiana highway which runs West to East. It further transpires that the Indica Car belonging to the complainant (PW-2) who claims to have been following it from behind while seated in another vehicle was proceeding West to East. So in the normal course its placement on the main road ought to have been on the Northern edge being the

left side of the road. But the accident took place at a point virtually on the edge of the Southern side at a point where the road had bifurcated in the direction of Kharar Civil Hospital. On the other hand admittedly the offending vehicle being the truck driven by the petitioner was coming from the opposite (Eastern Side) on the upper portion of the bifurcated road, and therefore was on its left edge, since the point of accident itself would have been on the left edge extremity, had the road bifurcation not been in existence. From the photographs of the locale led into evidence which have all been exhibited, it is seen that the Indica Car had hit the truck in a head-on collision and suffered extensive damages on its frontal portion.

6. In his deposition the PW-2 had admitted explicitly that the Indica Car had not taken any turn towards the Kharar side of the road, nor had used any indicator light to indicate such turning. This would clearly go to show that the complainant's car by his own admission was proceeding on the wrong side of the road when it had the collision with the offending truck. No doubt there is some amount of negligence attributable to the truck driver as well since speed of the vehicles concerned at the relevant time would certainly indicate an element of rashness involved in the

occurrence. But contributory negligence on the part of the car driver is certainly undeniable from the emerging facts as analyzed now.

7. In such circumstances, considering the detention already undergone by the petitioner, which is in excess of three quarters of the maximum sentence awarded to him, this Court is of the opinion that while his conviction for the offences under Sections 279, 337/304-A of the IPC is liable to be sustained, yet he is also entitled to the benefit of remission of sentence at this very stage. The sentence of the petitioner is therefore directed to be reduced to the extent already undergone by him, and he be released forthwith, if not required in any other case.

8. Ordered accordingly.

9. Disposed off.

November 08, 2017

Dpr

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No