

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

CRR No.3231 of 2017 (O&M).
Decided on:-23.10.2017.

Vijay Kumar.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Gopal Singh Nahel, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 26.07.2017 passed by learned Additional Sessions Judge-I, Sangrur whereby his appeal against the judgment of conviction and order of sentence dated 12.05.2016 passed by learned Sub-Divisional Judicial Magistrate, Sunam, was dismissed.

Briefly stated, FIR No.04 dated 03.01.2015 under Sections 279, 337 and 427 IPC was registered against the petitioner-accused at Police Station Sadar Sunam on the allegations that on 02.01.2015, complainant Maninder Singh was going in a car from Mehla Chowk to village Palasour. At about 08.15 P.M., while he was in his way near village Kheri, a traula/truck being driven by the petitioner-accused in a high speed as well as rash and

negligent manner, came from Sangrur side. The driver of the truck hit the car of the complainant by striking the side of the truck with the car. Due to the impact, the car of the complainant hit the middle tyres of the truck. Gurpreet Singh, who was sitting in the car with the complainant removed the complainant outside the car. The car of the complainant was badly damaged and the complainant suffered injuries on his head.

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 and 337 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 12.05.2016 convicted the petitioner for the commission of offence punishable under Sections 279 and 337 IPC.

Vide separate order dated 12.05.2016, learned trial Court sentenced the petitioner-accused as under:

<u>Offence</u>	<u>Sentence</u>
Under Section 279 IPC	Rigorous imprisonment for six months and fine of Rs.500/- and in default thereof, to further undergo RI for one month.
Under Section 337 IPC	Rigorous imprisonment for six months and fine of Rs.500/- and in default thereof, to further undergo RI for one month.

It was, however, ordered that both 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 26.07.2017 passed by learned Additional Sessions Judge-I, Sangrur, 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 six months, the petitioner has already undergone imprisonment for 4 months and 2 days including remission.

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 03.01.2015 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 and 337 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 six months, the petitioner has already undergone imprisonment for 4 months and 2 days. 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 03.01.2015 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 4 months including remission, 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. Therefore, the petitioner be released forthwith, if not required in any other case.

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

October 23, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No