

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 4236 of 2017 (O/M)
Date of decision : 28.11.2017

Kaur Singh

..... Revisionist

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. G.S. Sandhu, Advocate, for,
Mr. Neeraj Jain, Advocate, for revisionist.

Ms. Monika Jalota, DAG Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Custody certificate filed in Court today and same is taken on record.

Heard.

Revisionist, who is a truck driver by profession, was convicted by the learned Judicial Magistrate 1st Class, Malout, under Sections 279, 337, 338 IPC, vide judgment of conviction and order of sentence dated 24.10.2016 and was sentenced as under :-

“U/s 279 IPC	To undergo rigorous imprisonment for six months and to pay fine of Rs. 1000/-. In default of payment of fine, to further undergo R.I. for 1 Month.
U/s 337 IPC	To undergo rigorous imprisonment for six months and to pay fine of Rs. 500/-. In default of payment of fine, to further undergo R.I. for 15 days.
U/s 338 IPC	To undergo rigorous imprisonment for one year and to pay fine of Rs. 500/-. In default of payment of fine, to further undergo R.I. for 15 days.”

All the sentences were directed to run concurrently.

In appeal, the learned Sessions Judge, Sri Muktsar Sahib, set aside the conviction and sentence under Section 338 IPC, while the sentences passed under Sections 279 and 337 IPC were maintained, vide judgment dated 1.11.2017.

Revision was pressed only on the point of quantum of sentence.

The perusal of custody certificate shows that revisionist has already undergone the actual sentence of 26 days. Revisionist is not a previous convict, nor any case is pending against him.

The learned counsel for revisionist has pressed for showing leniency in the sentence, stating that revisionist is first offender. Therefore, conviction under Section 338 IPC should not be maintained.

The perusal of judgments of both the Courts below shows that as a result of rash and negligent driving by revisionist, 8 persons, namely, Mohan Lal, Kala, Sant, Naresh, Anil Kumar, Vijay, Ranjit Singh and Kishore were injured. Some of them were allegedly having fracture, but the grievous injuries were not proved before the Courts below.

Considering the entirety of facts and circumstances and the fact that conviction is under Sections 279, 337 IPC and revisionist is first offender, while maintaining the conviction of revisionist under Sections 279, 337 IPC, the sentences passed upon him is hereby set aside and he is ordered to be released on probation under Section 5 (1) of the Probation of Offenders Act, 1958, on his executing probation bonds in the sum of Rs. 25,000/- with one surety each of the like amount, for a period of two years, with an undertaking to maintain peace and be of good behaviour and drive the vehicle safely to the satisfaction of the learned Chief Judicial Magistrate,

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Sri Muktsar Sahib, within two weeks after his release from the jail. It is made clear that if during this period of two years, revisionist commits any traffic offence, the sentences passed upon him by the Courts below shall revive and revisionist shall surrender before the trial Court to undergo the remaining part of sentence. The fine imposed under Section 337 IPC is enhanced from Rs. 500/- to Rs. 80,000/-, to be paid as Rs. 10,000/- each to all injured as compensation. It is further directed that as per Section 12 of the Probation of Offenders Act, 1958, said conviction shall not be treated as disqualification for any purpose. Revisionist be released forthwith, if not required in any other case.

In view of above, revision is partly allowed.

(KULDIP SINGH)
JUDGE

28.11.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No