

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

**CRR No.57 of 2017 (O&M)
Date of Decision: February 16, 2017**

Balour Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Nitish Garg, Advocate
for the petitioner.

Mr.K.S.Aulakh, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Balour Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 02.07.2015 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 under Section 279 IPC and to 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 15 days under Section 338 IPC and also challenging the judgment dated 03.12.2016 passed by learned Addl. Sessions Judge, Bathinda, vide which appeal filed by the petitioner was dismissed. Both the sentences were ordered to run

Notice of motion was issued. Learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioners in case FIR No.433 dated 26.06.2009. 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 22.6.2009, a telephonic message was received at P.S.Kotwali, Bathinda from P.P.Civil Lines Bathinda that Krishan Kumar Vinocha is admitted in Badyal Hospital, Bathinda due to injuries, some IO be sent. Thereupon HC Gurcharan Singh No.978 reached at Badyal Hospital and got the opinion of doctor regarding fitness of injured for making statement, upon which doctor declared the injured unfit to make the statement. On 23.6.2009, HC Baldev Singh No.1802 alongwith HC Gurcharan Singh No.978 and PHG Rajinder Kumar again visited Badyal Hospital and got the opinion of doctor, upon which doctor declared the patient fit to make the statement, Then statement of Krishan Kumar Vinocha son of Topan Dass Arora was recorded to the effect that he is resident of H.No.14261, Gali No.2-A, Ganesh Basti and is practicing as an Advocate in District Courts Bathinda. Yesterday on 22.6.2009 at about 11.15 a.m., he was going to his house on his scooter bearing No.PB-03F-5960. When he reached near Hanuman Chowk, then a car Tata Indica No.PB-03R-6516 came from the backside and the driver of the car negligently struck the front bumper of the car in the back of his scooter, due to which he fell down and received injury on his leg. Then he called his son on telephone, who admitted him in hospital, where he is getting treatment. The driver of car fled away from the spot. He lateron came to know that the said car was being driven by Balour Singh son of Kulwant Singh resident of Bhucho Khurd. He has received the injuries due to rash and negligent driving of car driver. Action be taken against the accused.

3. After recording the statement, the same was sent through PHG Rajinder Kumar to the police station and FIR was got registered against accused. During investigation, place of occurrence was visited and rough site plan was prepared on the demarcation of Gaurav Vinocha. Statements of witnesses were recorded. On 30.6.2009, accused Balour Singh son of Kulwant Singh was arrested and Car bearing NO.PB-03R-6516 alongwith RC and driving licence were taken into possession vide separate memo. Offence being bailable,

accused was released on bail. Gaurav Vinocha, son of complainant, produced the accidental scooter Vespa No.PB-03-5960 alongwith RC and the same was taken into police possession. Memos were attested by witnesses. On 1.7.2009, test reports of Scooter and Car were obtained. Statements of witnesses were recorded. After completion of investigation in all respects, 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 Addl. Sessions Judge, Bathinda, vide judgment dated 03.12.2016.

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

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the 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, only bread earner of the family and suffering from the criminal proceedings since 2009 and he has already undergone actual sentence of 2 months and 16 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 02.07.2015 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 first offender, only bread earner of the family and is facing long protracted criminal proceedings since 2009 i.e. for the last about 8 years and also in view of the fact that petitioner has already undergone actual sentence of 2 months 16 days out of the total sentence including remission of 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.

Therefore, the present revision petition stands partly allowed.

Petitioner, Balour Singh, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

February 16, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No