

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

CRR No.1488 of 2017 (O&M).

Decided on:-August 02, 2018.

Jagjit Singh alias Billu.

.....Petitioner.

Versus

The State of Punjab.

.....Respondent.

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

Present:- Mr. Piyush Khanna, Advocate
for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 02.03.2017 passed by learned Additional Sessions Judge, Moga whereby his appeal against the judgment of conviction and order of sentence dated 30.03.2016 passed by learned Judicial Magistrate 1st Class, Moga was dismissed.

Briefly stated, FIR No.54 dated 19.04.2010 under Sections 279, 337, 338, 427 and 304-A IPC was registered against the petitioner-accused and co-accused Sukhpal Singh at Police Station City South Moga. As per the FIR, on 18.04.2010 ASI Sukhpal Singh had visited Civil Hospital, Moga received an information that the dead body of Sev Singh had reached the hospital. Besides this, two persons, namely, Malkiat Singh and Jawant Singh were also admitted in the hospital with injuries on their persons. On the basis of this information, he reached the said hospital, where he was informed that

Malkiat Singh and Jaswant Singh had been referred to Dayanand Medical College & Hospital, Ludhiana and no other person, who could give the information regarding the said accident was available in Civil Hospital, Moga.

On the next day i.e. 19.04.2010, ASI Sukhpal Singh again visited Civil Hospital, Moga, where he met complainant Darshan Singh son of Chuhar Singh, resident of Charik, who made a statement that his brother Sev Singh is settled in Singapore for about 15 years. His nephew Malkiat Singh son of Harbans Singh, resident of village Malla had been living with his family since childhood and thereafter, he also got settled in U.S.A. During those days, Malkiat Singh had come to India for his marriage. The Shagan ceremony of Malkiat Singh was to take place in Maharaja Palace, Moga on 19.04.2010. On the previous day i.e. 18.04.2010, the complainant and one Darshan Singh son of Bakhshish Singh, resident of village Charik had gone to Moga to purchase a car in connection with the said function. Malkiat Singh, Jaswant Singh and Sev Singh had accompanied them in another car. When all of them were returning to village Charik from Moga at about 1.30 P.M., their car was about 100 karams short of the point from where the road bifurcates to village Charik. Jaswant Singh was driving the Alto car bearing registration No. PB-29H-6310. Sev Singh was sitting on the front seat of the said car and Malkiat Singh was sitting on the rear seat of the said car. The car in which the complainant was travelling was being driven by Darshan Singh son of Bakhshish Singh. The car driven by Jaswant Singh was ahead of their car. At that time, a truck bearing registration No.PB-04-2796 came from the opposite side. In the meantime, a bus bearing registration No.PB-30D-2273 overtook

the car in which the complainant was sitting, at a very fast speed. Darshan Singh stopped his car. The driver of the truck coming from the opposite side hit the truck into the car in which Sev Singh was sitting. Thereafter, the bus which overtook the car of the complainant also hit into the said car from the rear side. Thereafter, the drivers of the said truck as well as the bus ran away after leaving their respective vehicles on the spot. In the mean time, the Highway police reached there and took Sev Singh, Malkiat Singh and Jaswant Singh to Civil Hospital, Moga. Sev Singh was declared dead by the Medical Officer. The concerned doctor referred injured Malkiat Singh and Jaswant Singh to Dayanand Medical College and Hospital, Ludhiana. The truck was being driven by Jagjit Singh alias Billu (petitioner herein) and the bus belonging to Muktsar Depot PUNBUS was being driven by Sukhpal Singh.

Investigation was conducted by the police. Petitioner Jagjit Singh alias Billu and co-accused Sukhpal Singh were 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 as well as other co-accused. On finding a prima facie case against the petitioner and the co-accused, they were charge-sheeted under Sections 279, 337, 338 and 304-A IPC, to which they did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment and order dated 30.03.2016 held the petitioner and co-accused Sukhpal Singh guilty for the commission of offence punishable under Sections 279, 337, 338 and 304-A IPC and sentenced them as under:

<u>Offence</u>	<u>Sentence</u>
279 IPC	Rigorous imprisonment for three months each.
337 IPC	Rigorous imprisonment for three months and to pay a fine of Rs.500/- each and in default thereof, to further undergo RI for 30 days each.
338 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo RI for 30 days each.
304-A IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo RI for 30 days each.

It was, however, ordered that all the substantive sentences of imprisonment shall run concurrently.

Feeling aggrieved, the petitioner and co-accused Sukhpal Singh preferred separate appeals against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 02.03.2017 passed by learned Additional Sessions Judge, Moga, appeal of the petitioner was dismissed, whereas the appeal of co-accused Sukhpal Singh was allowed and he was acquitted of the charges leveled against him.

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 two years, the petitioner has already undergone imprisonment for 10 months and 18 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 and is the sole bread earner of his family. He has been suffering the agony of criminal proceedings since 19.04.2010 i.e. the date of registration of the FIR in question. 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 produced by learned State Court in 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, 337, 338 and 304-A IPC. The appellate Court has also 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 two years, the petitioner has already undergone imprisonment for 10 months and 18 days including remission. 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 19.04.2010 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 10 months and 18 days 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 shall be no change in the sentence of fine. Perusal of the order of sentence dated 30.03.2016 passed by learned trial Court shows that the fine as imposed by the trial Court was paid by the petitioner.

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

August 02, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No