

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

CRR No.4108 of 2017.

Decided on:- October 23, 2018.

Ashish Sharma.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

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

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Ripu Daman, Assistant Advocate General, Haryana.

HARI PAL VERMA, J.

The petitioner has filed the present criminal revision against the judgment dated 26.10.2017 passed by learned Additional Sessions Judge, Karnal whereby his appeal against the judgment of conviction dated 01.08.2015 and order of sentence dated 05.08.2015 passed by learned Judicial Magistrate 1st Class, Karnal, was dismissed.

Briefly stated, FIR No.709 dated 12.08.2011 under Sections 279, 336, 337, 338 and 427 IPC was registered against the petitioner-accused at Police Station City Karnal on the basis of statement made by complainant Rajiv Kumar (respondent No.2 herein). As per the FIR, on 11.08.2011, the complainant along with his sister-in-law Pushpa Rani (respondent No.3 herein) was going to the market of Karnal from Prem Nagar on his motorcycle bearing registration No.HR-05-9894. Pushpa Rani was sitting on the motorcycle as a pillion rider. At about 11.30 P.M., when they reached

near Ibrahim Mandi near Sadar Bazaar, Karnal, a Qualis vehicle bearing registration No.HR-05N-2824 being driven in a fast speed, rashly and negligently came from the front side and hit against their motorcycle. Due to the impact, both of them fell on the road and due to the fast speed, the Qualis vehicle rammed into a wall of the house towards the right side and the wall was also broken. The driver of the offending vehicle ran away after leaving the offending vehicle on the spot. In the accident, right leg of Pushpa Rani was fractured and the complainant also received injuries on his face, forehead and other parts of his body.

Investigation was conducted by the police. The petitioner 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 free of cost. Finding a prima facie case against the petitioner, he was charge-sheeted under Sections 279, 337, 338 and 427 IPC vide order dated 03.01.2012 passed by the trial Court, to which he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment and order dated 01.08.2015 convicted the petitioner for the commission of offence punishable under Sections 279, 337 and 338 IPC and vide separate order dated 05.08.2015, sentenced him as under:

<u>Offence</u>		<u>Sentence</u>
279 IPC		To pay a fine of Rs.500/-.
337 IPC		To pay a fine of Rs.500/-.

338 IPC		Rigorous imprisonment for six months and to pay a fine of Rs.500/-.
---------	--	---

It was further ordered that in case of default in payment of fine, the convict shall undergo simple imprisonment for 15 days.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 26.10.2017, learned Additional Sessions Judge, Karnal dismissed the said appeal.

It is in the aforesaid circumstances, the petitioner has filed the present criminal revision.

On November 09, 2017 when the present criminal revision came up for hearing before this Court, learned counsel for the petitioner pressed the petition only on the point of quantum of sentence. Today also, learned counsel for the petitioner has not challenged the conviction of the petitioner, but restricted his arguments on the point of quantum of sentence awarded to the petitioner.

He has argued that as against the awarded sentence of 6 months, the petitioner has already undergone imprisonment for a period of 04 months and 28 days including remission. He has contended that the petitioner has old aged parents to look after and is the sole bread earner of his family. He has been suffering the agony of criminal proceedings since 12.08.2011 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. Custody certificate produced by learned State counsel 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 and 338 IPC. The appellate Court has also dismissed his appeal qua these offences. There is no illegality or perversity in the findings given by both the Courts below regarding conviction of the petitioner under Sections 279, 337 and 338 IPC, which may warrant interference of this Court by invoking its 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, the custody certificate so placed on record by learned State counsel shows that as against the awarded sentence of 6 months, the petitioner has already undergone actual imprisonment for 3 months and 22 days. Besides this, he has also earned remission for a period of 1 month and 6 days and in this manner, he has already undergone total imprisonment for a period of 4 months and 28 days. He has been facing the agony of criminal proceedings

since 12.08.2011 i.e. the date when the FIR in question was registered against him.

Therefore, taking into account the protracted trial coupled with the fact that he has already suffered incarceration for a period of 4 months and 28 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, however, subject to payment of compensation of Rs.30,000/- (Rs.15,000/- each) to both the injured i.e. respondents No.2 and 3, as envisaged under Section 357 Cr.P.C.

Ordered accordingly.

However, there shall be no change in the sentence of fine imposed upon the petitioner.

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

October 23, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No