

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

239

CRR-4395-2017

Date of Decision: April 17, 2018

Kuldeep

.....Petitioner(s)

versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL*******

Present: Mr. R.S. Dhull, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

*********Sudhir Mittal, J. (Oral)**

The petitioner lays challenge to judgment of conviction dated 07.01.2015 and order of sentence dated 08.01.2015 passed by Judicial Magistrate Ist Class, Hissar as well as the judgment dated 13.11.2017 of the Additional Sessions Judge, Hissar, dismissing his appeal, by way of present revision petition. The petitioner has been convicted under sections 332 and 353 IPC and sentenced as follows:-

Section	RI	Fine	In default of payment of fine
332 IPC	One year	1000/-	R.I. For ten days
353 IPC	Six months	500/-	S.I. For five days

2. As per the prosecution case, the police party headed by ASI Ishwar Singh was present at Jagat Palace on 15.01.2009 when it was met by EHC Bhura

Ram with the complaint that he was driver of a Government Crane at Traffic Police Station, Chikanwas. On 14.01.2009 at about 9:30 P.M. he along with EHC Shishpal was deputed to remove accidented Tractor and Alto car from the road. He was engaged in shifting the car and his colleague EHC Shishpal was managing the traffic. Meanwhile, one pick up vehicle being driven by Satish, came and hit the crane despite the signal of EHC Shishpal. When the complainant EHC Bhura Ram tried to enquire from the driver of the pick up vehicle, he (Satish) along with the petitioner stepped out of the vehicle and started beating him. They were apprehended by EHC-Shishpal and the complainant. Sub Inspector-Ami Lal was informed who reached the spot along with Constables Krishan Lal and Bhajan Lal and the petitioner along with his co-accused was arrested.

3. During the trial, co-accused, Satish had died and the petitioner was convicted and sentenced as stated hereinabove.

4. Learned counsel for the petitioner submits that the petitioner is a first offender. There is no other criminal case pending or decided against him. He has already remained in custody for almost six months and has learnt his lesson. Thus, a prayer has been made for sentencing the petitioner to the period already undergone.

5. Learned State counsel submits that the actual custody period of the petitioner is five months and two days and inclusive of remission, it is six months and three days.

6. From the above, it is apparent that the petitioner has already undergone half of his actual sentence. It is also not in dispute that the petitioner is a first offender and has no criminal antecedents. Under these circumstances, I deem it appropriate to modify the sentence of the petitioner as follows:-

- Section 332 IPC, RI for six months and to pay fine of Rs.1000/-, in

default of which to further undergo RI for ten days.

- Section 353 IPC, RI for six months and to pay fine of Rs.500/-, in default of which to further undergo SI for five days.

7. Accordingly, the judgment of conviction dated 07.01.2015 passed by the J.M.I.C Hissar and affirmed vide judgment dated 13.11.2017 by the Additional Sessions Judge, Hissar, is upheld. So far as order of sentence dated 08.01.2015 is concerned, the same is modified by reducing the sentence to the effect that petitioner-Kuldeep son of Sita Ram is sentenced as under:

Section of IPC; 1860	RI	Fine in ₹	In default of payment of fine
332 IPC	Six months	1000/-	R.I. For ten days
353 IPC	Six months	500/-	S.I. For five days

8. Sentences are to run concurrently.

9. Thus, except the above modification in the order of sentence, the instant revision petition is dismissed.

10. Copy of the judgment be sent to the Court/Successor Court of the Convicting Magistrate, concerned for compliance.

April 17, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No