

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

CRR No.3073 of 2018 (O&M)
Decided on:- October 31, 2018.

Manoj.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Shiv Kumar Bishnoi, Advocate
for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, Haryana.

HARI PAL VERMA, J.

The petitioner has filed the present criminal revision against the judgment dated 01.09.2018 passed by learned Sessions Judge, Sirsa whereby his appeal against the judgment of conviction dated 26.02.2016 and order of sentence dated 04.03.2016 passed by learned Judicial Magistrate 1st Class, Sirsa, was dismissed with modification in the order of sentence.

Briefly stated, FIR No.141 dated 30.11.2010 under Sections 279, 337 and 338 IPC was registered against the petitioner-accused at Police Station Nathu Sari Chopta on the basis of statement made by complainant Jagdish Chander. As per the FIR, on 30.11.2010, the complainant got his statement recorded before the police that on 27.11.2010 at about 05.00 P.M., he was going to Nathusari Chopta via Bhattu Kalan Road from his fields on his motorcycle. Amar Singh son of Gopi Ram, resident of his village was with

him as a pillion rider. Satish son of Jaibir, who is nephew of the complainant was also coming towards the fields on his motorcycle bearing registration No.HR-24H-9994. In the meantime, a Maruti Zen car bearing registration No.DL-3CR-0623 came from the opposite side and hit against the motorcycle of Satish due to which he fell down on the road and sustained multiple injuries and lost consciousness. The offending car also got stuck in the nearby bushes and its driver fled away leaving the car at the spot. Injured Satish was admitted in the hospital and police was informed.

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 and 338 IPC vide order dated 24.02.2012 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 dated 26.02.2016 convicted the petitioner for the commission of offence punishable under Sections 279, 337 and 338 IPC and vide separate order dated 04.03.2016, sentenced him as under:

<u>Offence</u>		<u>Sentence</u>
279 IPC		Simple imprisonment for two months.
337 IPC		Simple imprisonment for two months.
338 IPC		Simple imprisonment for six months.

It was further ordered that all the substantive sentences shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. Similarly, a separate appeal was also preferred by complainant Jagdish Chander for enhancement of sentence and compensation under Section 357 Cr.P.C. However, vide common judgment dated 01.09.2018, learned Sessions Judge, Sirsa partly accepted the appeal filed by the complainant and dismissed the appeal filed by the petitioner with modification in the order of sentence to the effect that the sentence awarded to the petitioner under Section 338 IPC was reduced to three months instead of six months provided he made payment of Rs.25,000/- to the victim's family as compensation under Section 357 Cr.PC within 15 days.

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

On September 12, 2018 when the present criminal revision came up for hearing before this Court, learned counsel for the petitioner stated that he did not wish to argue the petition on merits and confined his arguments only qua the quantum of sentence. Thus, notice of motion was issued for 17.10.2018 limited to the extent of quantum of sentence only. However, it was directed that in case the petitioner makes the payment of Rs.50,000/- as compensation to the victim's family as envisaged under Section 357 Cr.PC within a period of one week from that date, he shall be released on interim bail subject to furnishing bail bonds and surety bonds to the satisfaction of CJM/Duty Magistrate, Sirsa.

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 also produced a copy of the receipt of Rs.50,000/- deposited on behalf of the petitioner before learned Judicial Magistrate 1st Class, Sirsa on 13.09.2018. The same is taken on record.

He has argued that as against the awarded sentence of 3 months by learned appellate Court, the petitioner has already undergone imprisonment for a period of 13 days. He has contended that the petitioner is a poor person, has an old aged mother and three children to look after and is the sole bread earner of his family. He has been suffering the agony of criminal proceedings since 30.11.2010 i.e. the date of registration of the FIR in question. He is a first time offender and no other case is pending against him. Thus, learned counsel for the petitioner 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, on the strength of custody certificate available on record, he has stated that no other case is pending against the petitioner.

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 available on record shows that as against the awarded sentence of 3 months by learned appellate Court, the petitioner has already undergone actual imprisonment for 13 days. He has been facing the agony of criminal proceedings since 30.11.2010 i.e. the date when the FIR in question was registered against him. Besides this, the copy of receipt dated 13.09.2018 shows that he has also deposited the amount of Rs.50,000/- before learned Magistrate, Sirsa, on account of compensation to the victim's family, as directed by this Court vide order dated September 12, 2018.

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 13 days, 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.

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

October 31, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No