

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

CRR No.693 of 2018 (O&M).

Decided on:-July 26, 2018.

Shamsher Singh alias Shera.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Amit Arora, Advocate
 for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 14.11.2017 passed by learned Sessions Judge, Sri Muktsar Sahib, whereby his appeal against the judgment of conviction and order of sentence dated 24.03.2017 passed by learned Chief Judicial Magistrate, Sri Muktsar Sahib, was dismissed.

Briefly stated, FIR No.12 dated 29.01.2015 under Sections 279, 337 and 338 IPC was registered against the petitioner-accused at Police Station City Sri Muktsar Sahib with the allegations that on 27.01.2015, complainant Gurtej Singh along with his cousin Kanwaljit Singh and Parminder Kaur daughter of Chand Singh were going to bye-pass Kotkapura Road, Sri Muktsar Sahib from village Sarainaga on the bus. They alighted from the bus at Kotkapura Road bye-pass. Parminder Kaur was employed as

Nurse at Jindal Hospital, Sri Muktsar Sahib and was handicapped from her left leg. When she was crossing Dr. Kehar Singh Marg Chowk, a truck bearing registration No.PB-06V-4577, which was being driven in a rash and negligent manner, hit Parminder Kaur and ran over her right leg, due to which her right leg was badly mutilated. Thereafter, Kanwaljit Singh started looking after Parminder Kaur. In the mean time, the driver alighted from the truck and told that the accident had taken place due to his rash and negligent driving. He also disclosed his name as Shamsheer Singh alias Shera Puran Singh, resident of Mohalla Jaswant Singh near Darbar Sahib, Tarn Taran. A number of people gathered at the spot and taking advantage of the same, the accused managed to run away from the spot. A vehicle was arranged and injured Parminder Kaur was shifted to Jindal Hospital, Sri Muktsar Sahib. However, due to her serious condition, she was referred to Guru Gobind Singh College, Faridkot by Ambulance, where she was given first aid treatment and was further referred to D.M.C., Ludhiana.

The investigation was conducted by the police. The petitioner-accused 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-accused. On finding a prima facie case against the petitioner, he was charge-sheeted under Sections 279, 337 and 338 IPC, 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 24.03.2017 held the petitioner-accused

guilty for commission of offence punishable under Sections 279, 337 and 338 IPC and sentenced him as under:

<u>Offence</u>	<u>Sentence</u>
279 IPC	Rigorous imprisonment for six months and fine of Rs.500/- and in default thereof, to further undergo imprisonment for 15 days.
337 IPC	Rigorous imprisonment for six months and fine of Rs.500/- and in default thereof, to further undergo imprisonment for 15 days.
338 IPC	Rigorous imprisonment for two years and fine of Rs.1,000/- and in default thereof, to further undergo imprisonment for one month.

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

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 14.11.2017 passed by learned Sessions Judge, Sri Muktsar Sahib, appeal of the petitioner was dismissed.

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 remained in custody from 24.03.2017 till 02.06.2017 during trial and thereafter, he is in custody since 14.11.2017 i.e. the date when his appeal was dismissed by learned appellate Court.

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 29.01.2015 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.

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. 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 remained in custody

from 24.03.2017 till 02.06.2017 during trial and thereafter, he is in custody since 14.11.2017 i.e. the date when his appeal was dismissed by learned appellate Court. 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 29.01.2015 i.e. the date when the FIR in question was registered against him. Therefore, taking into account the protracted trial, antecedents of the petitioner and the period of incarceration already suffered by him, 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 would be no change in the sentence of fine. As such, in case the petitioner has already deposited the fine imposed by learned trial Court and affirmed by learned appellate Court, he be released forthwith, if not required in any other case.

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

July 26, 2018

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No