

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

CRR No.752 of 2018 (O&M)

Decided on:-July 19, 2018.

Jagjeet Singh alias Jagdish Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Ms. Gurleen Dhanoa, Advocate, legal aid counsel
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 06.12.2017 passed by learned Sessions Judge, Sri Muktsar Sahib whereby his appeal against the judgment of conviction and order of sentence dated 06.07.2017 passed by learned Chief Judicial Magistrate, Sri Muktsar Sahib, was dismissed.

Briefly stated, FIR No.104 dated 18.06.2014 under Sections 279, 337, 338 and 427 IPC was registered against the petitioner-accused at Police Station City Sri Muktsar Sahib on the allegations that on 15.06.2014, complainant Gurtej Singh along with his brother Gurdev Singh was going from Sri Muktsar Sahib to their village Mangat Ker on a jeep bearing registration No.RJP-4932. When they reached near the fields of Gurraj Singh Fattanwala at about 01.00 P.M., one Alto car bearing registration No.PB-

03XD-2236 came from the side of Guru Harsahai, which was being driven by the petitioner-accused in a rash and negligent manner and struck against their jeep. Due to the impact, Gurdev Singh suffered injuries on his right eye, jaw, right leg and other parts of his body. The passengers of the car also received injuries and the car was also damaged. The petitioner-accused fled away from the spot on some unknown vehicle. Injured Gurdev Singh was admitted in DMC Hospital, 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, 338 and 427 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 06.07.2017 convicted and sentenced the petitioner as under:

<u>Offence</u>	<u>Sentence</u>
279 IPC	Rigorous imprisonment for 6 months and fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for 7 days.
337 IPC	Rigorous imprisonment for 6 months and fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for 7 days.
338 IPC	Rigorous imprisonment for 2 years and fine of Rs.1,000/- and in default thereof, to

further undergo rigorous imprisonment for 15 days.

427 IPC

Rigorous imprisonment for 1 year and fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for 7 days.

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 06.12.2017 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.

Learned counsel for the petitioner has argued that the impugned judgments passed by the Courts below are based on conjectures and surmises and are not sustainable in the eyes of law. The prosecution evidence is highly contradictory, inconsistent and untrustworthy and attending circumstances of the case show that no offence is made out against the petitioner. But despite that, the petitioner has been held guilty and even the sentence awarded to him is excessive.

She has further argued that the accident took place on 15.06.2014, wherein Gurdev Singh suffered injuries and despite being in a fit state of mind on 16.06.2014, did not make any statement before the police. Rather, his brother i.e. complainant Gurtej Singh made a complaint to the police on 18.06.2014 i.e. after 3 days of the occurrence. Therefore, case of the

prosecution is concocted. She has prayed for setting aside of the impugned judgments of conviction as well as order of sentence.

On the other hand, learned State counsel has argued that the prosecution has successfully proved its case by examining all the relevant witnesses and it is on the basis of cogent and convincing evidence produced by the prosecution, learned Courts below have convicted and sentenced the petitioner.

I have heard learned counsel for the parties.

At the outset, it would be relevant to mention here that there are concurrent findings given by the Courts below against the petitioner. The scope of revisional jurisdiction is vested with limited powers and the same should be exercised only in case where the trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence.

Though counsel for the petitioner has argued that there is a delay of 3 days in lodging the FIR, but record reveals that the said delay has duly been explained by the prosecution. Injured Gurdev Singh, who suffered injuries in the accident was admitted in DMC Hospital on 15.06.2014 as per Medical Ruqa Ex.PW6/A and information to the police was also sent on 16.06.2014. On receipt of the information, ASI Gurmej Singh (PW6) reached DMC Hospital, Ludhiana and found that injured Gurdev Singh was admitted there. Though the concerned doctor declared the injured fit to make a statement, but when the investigating officer reached the injured, he told him that he was not feeling well and would give his statement later. Thereafter, on

return to the Police Station, a rapat was duly entered into the Roznamcha. Again on 18.06.2014, when the investigating officer was present at Guru Harsahai Road, Sri Muktsar Sahib, brother of the injured, namely, Gurtej Singh met him and got his statement recorded, on the basis of which the FIR in question was registered.

Moreover, the ocular version of the prosecution put forth by complainant Gurtej Singh (PW1) and injured Gurdev Singh (PW2) has duly been corroborated with the medical evidence proved on record by Dr. H.S. Selhi (PW7), Dr. Priyanka Arora (PW8) and Dr. Ravnish Garg (PW9). As per the testimony of HC Harwinder Singh (PW4), it has also been proved that loss and damage was caused to the jeep belonging to injured Gurdev Singh. Therefore, 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 427 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 its revisional jurisdiction. The conviction of the petitioner is, therefore, affirmed.

However, this Court cannot ignore the fact that as against the awarded sentence of two years, the petitioner is in custody since 06.12.2017 i.e. the date of passing of the impugned judgment by the learned appellate Court, and as such, he has already undergone imprisonment for more than 7 months and 13 days. Further, he has been facing the agony of criminal proceedings since 18.06.2014 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 7 months and 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.

The petitioner 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 19, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No