

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

**CRR No.786 of 2019 (O&M)
Decided on: 29.04.2019**

Jarnail Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Umesh, Advocate
for Mr. Bhupesh Dogra, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J.

Prayer in this revision petition is for setting-aside the judgment of conviction as well as the order of sentence dated 11.10.2017 vide which the petitioner was convicted for offence punishable under Sections 279, 337, 338, 427 of the Indian Penal Code, 1860 (in short 'IPC') and was sentenced to undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs.3,000/- as well as for setting-aside the order dated 13.10.2018, vide which the appeal preferred by the petitioner/appellant was upheld by the Lower Appellate Court.

Brief facts of the case are that on the statement of complainant – Jaswinder Singh the case has been registered, wherein he has stated that he is a mechanic and is running workshop at Pohid Road, Ahmedgarh. On 15.12.2012, he along with Surjit Singh son of Hardev Singh was going to Ahmedgarh on his motorcycle bearing registration No.PB-28-E-3710, at about 02:30 PM, when they reached

near bus stand of Ahmedgarh, a bus came rashly and negligently without blowing any horn and the driver of the said bus turned the same towards the outer gate by striking the tyre of his motorcycle due to which they fell down. The aforesaid accident took place due to rash and negligent driving of driver of the aforesaid bus. The driver of the bus fled away from the spot. The complainant received multiple injuries and the motorcycle was also damaged. Later on, the complainant came to know that said bus bearing registration No.PB13-F-4845 belongs to Randhawa Company, which was being driven by Jarnail Singh son of Amar Singh. On the basis of his statement, ruqa was sent to the Police Station and thereafter, a formal FIR was registered. During the investigation, rough site plan of the place of incident was prepared. Photographs were clicked and the vehicles involved in the accident were taken into police possession vide separate recovery memos. Mechanical test reports of the vehicles were obtained. Medical record of the injured was obtained. The accused was arrested and released on bail. Further investigation was carried out. Statement of the witnesses were recorded and after completion of the investigation, challan against the accused was presented before the trial Court.

On presentation of the challan, charge under Sections 279, 338, 337, 427 IPC was framed against the accused, to which he pleaded not guilty and claimed trial.

The prosecution examined Jaswinder Singh (complainant) as PW1, Surjit Singh, eye-witness as PW2, ASI Jagtar Singh as PW3, HC Bua Dass as PW4, HC Avtar Singh as PW5, Dr. Maninder Kaur, DMC Ludhiana as PW6, Jagpreet Singh, Clerk, DTO Office, Sangrur as

PW7, Dharam Singh Jr. Assistant SDM Office as PW8, HC Mahinder Singh as PW9, Jagpreet Singh, Clerk DTO Office Sangrur as PW10, ASI Surinderpal Singh as PW11 and closed the evidence.

After conclusion of the evidence of the prosecution, the statement of petitioner/accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against him, was put to him to tender explanation for the same. The petitioner/accused denied the allegation of the prosecution and pleaded that he has been falsely implicated in the case. In defence, the accused did not produce any evidence and closed his defence evidence.

The trial Court, after hearing learned counsel for the parties and appreciating the evidence on record, convicted and sentenced the appellant/accused under Sections 279, 337, 338, 427 IPC.

Feeling dissatisfied with the judgment of conviction dated and order of sentence dated 11.10.2017, the petitioner/accused has preferred an appeal before the Lower Appellate Court and the same was upheld vide order dated 13.10.2018 passed by the Sessions Judge, Sangrur. Thereafter, the petitioner has preferred a revision before this Court, in which notice of the application for condonation of delay of 102 days in filing the revision has been issued on 29.03.2019.

Counsel for the petitioner, at the very outset, has submitted that since out of the total sentence of 01 year awarded by the trial Court, the petitioner has already undergone 08 months and 08 days of total sentence, he does not want to address arguments on merits and also submitted that the sentence of the petitioner be reduced to the period already undergone by him.

Counsel for the petitioner, in support of his arguments, has also submitted that the petitioner is the first offender and he is not involved in any other case. It is further submitted that the petitioner is a poor person and has his own family to support and the petitioner has faced the agony of protracted trial and the Courts below have not take a lenient view considering the age of the petitioner and has also not granted the benefit of Probation of Offenders Act, therefore, by taking a lenient view, the sentence awarded to the petitioner be reduced to the period already undergone by him.

Counsel for the State has filed the Custody Certificate today in the Court and has not disputed the fact that the petitioner has undergone total sentence of 08 months and 08 days out of 01 year rigorous imprisonment awarded by the trial Court.

After hearing the counsel for the parties, I uphold the judgment of conviction passed by the Courts below as the same are based on appreciation of prosecution evidence, proving guilt of the petitioner, however, considering the fact that the petitioner has faced the agony of protracted trial; the petitioner has already undergone 08 months and 08 days of total sentence; he is short of just 01 month and 22 days in completing the total sentence; the petitioner is not involved in any other case which shows that he has improved his character and has joined the mainstream of the society and also in view of the fact that he is a poor person and has his own family to support, the present revision petition is ***partly allowed*** and the sentence awarded to the petitioner is reduced to the period already undergone by him i.e. 08 months and 08 days. However, the imposition of fine of Rs.3,000/- is

upheld. The petitioner is directed to deposit the fine, if not deposited, so far, within a period of 02 months from today.

Disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

29.04.2019

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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No