

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

CRR-3102 of 2011

Reserved on : 29.04.2019

Date of decision : 24.05.2019

Sukhwinder Singh

.... Petitioner

Versus

State of Punjab

..... Respondent

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

Present: Mr. Sukhdeep Singh Sidhu, Advocate,
for the petitioner.

Mr. S.P.S. Tinna, Additional Advocate General, Punjab.

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RAJIV SHARMA, J.

1. This revision petition is directed against judgment and order dated 17.03.2011, rendered by learned Judicial Magistrate Ist Class, Phul, in Police Report No. 161 dated 08.10.2005, as well as against judgment dated 25.11.2011, passed by learned Sessions Judge, Bathinda, in Criminal Appeal No. 37 dated 01.04.2011.

2. Petitioner Sukhwinder Singh was charged with and tried for the offences punishable under Sections 279, 337, 338 IPC. He was convicted and sentenced by the learned trial court as under :-

<i>Offence</i>	<i>Sentence</i>
Under Section 279 IPC	Rigorous imprisonment for six months and to pay a fine of ₹ 1,000/- and in default of payment of fine, to undergo further rigorous imprisonment for 15 days.
Under Section 337 IPC	Rigorous imprisonment for six months and to pay fine of ₹ 500/- and in default of payment of fine, to undergo further rigorous imprisonment for 7 days.
Under Section 338 IPC	Rigorous imprisonment for two years and to pay fine of ₹ 1,000/- and in default of payment of fine, to undergo further rigorous imprisonment for 15 days.

All the sentences were ordered to run concurrently. Against his conviction and sentence, the petitioner filed appeal, which was dismissed by the learned appellate court. However, the sentence of rigorous imprisonment for a period of two years imposed upon the petitioner under Section 338 IPC was reduced to six months.

3. The case of the prosecution, in a nutshell, is that on 12.12.2004 at about 2.00 PM, in the area of Phul, the petitioner while driving bus bearing registration No. PB-03L-9221, on a public way, in a rash and negligent manner, caused grievous injuries to Harmail Singh, Jagtar Singh and Rajwinder Singh. The FIR was registered. The case was investigated and challan was put up after completing all the codal formalities.

4. The prosecution examined a number of witnesses in support of its case. The accused was also examined under Section 313 Cr.P.C. He

denied the case of the prosecution. According to him, he was falsely implicated. He also examined two witnesses in his defence. He was convicted and sentenced, as noticed here-in-above. The appeal filed by him was dismissed by the learned appellate court. However, the sentence of rigorous imprisonment for a period of two years imposed upon the petitioner under Section 338 IPC was reduced to six months. Hence, this revision petition.

5. Learned counsel appearing on behalf of the petitioner has vehemently argued that the prosecution has failed to prove its case against his client and both the courts below have misread the oral as well as documentary evidence. Learned counsel appearing on behalf of the State has supported the judgments of the courts below.

6. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

7. PW.2 Kuldeep Singh is the material witness. He testified that on 12.12.2004, he, his father Harmail Singh, his mother Amarjit Kaur, his wife Sukhjit Kaur and his son Rajwinder Singh were travelling in a car. They were travelling from village Channa towards Nathana. One bus came from village Jangiana side being driven at a very high speed. It rammed into their car. Jagtar Singh, the car driver, suffered head injuries. His father, namely Harmail Singh, also received injuries. He, his mother and his wife also suffered multiple injuries. The accident took place due to fault of the bus driver. He knew the bus driver. The injured persons were removed to Civil Hospital, Rampura. Jagtar Singh was referred to Bathinda. His son Rajwinder Singh and his father Harmail Singh were referred to DMC,

Ludhiana. Their car was also badly damaged. His statement was recorded by the police vide Ex.P2.

8. PW.1 Rajiv Kumar, Clerk, DTO Office, Bathinda, proved copy of the driving license of the accused vide Ex.P1.

9. PW.3 Jagtar Singh, who was driving the car, deposed that Harmail Singh had hired his car. Harmail Singh, his son Kuldeep Singh, his grand-son Rajwinder Singh and Amarjit Kaur were sitting in the car. They were going towards Nathana. At about 2.00 PM, one bus being driven at a very high speed came from village Jangiana. It rammed into the car. He suffered head injuries.

10. PW.4 ASI Mohan Singh, the Investigating Officer, proved the documents prepared during the course of investigation.

11. According to PW.5 Vivek Rattan, Clerk, DTO Office, Bathinda, Bhupinder Singh was the registered owner of the Mini bus bearing registration No. PB-03-L-9221.

12. PW.6 Harmail Singh is another injured witness. He also corroborated the statement of PW.2 Kuldeep Singh and PW.3 Jagtar Singh, regarding the manner in which the accident had taken place. He deposed specifically that he was sitting adjacent to the driver. His both legs and jaw were fractured. He also deposed that the accident occurred due to fault of the bus driver.

13. PW.9 Dr. G.S. Mann deposed that he had admitted Harmail Singh and Rajwinder Singh in Civil Hospital, Rampura, as road side accident case. Thereafter, they were referred to DMC, Ludhiana.

14. PW.10 Kirpal Singh, Clerk, DTO Office, Barnala, proved copy of driving license of Jagtar Singh, the car driver, vide Ex.PW.10/A.

15. PW.12 Dr. Dinesh Gupta testified that injured Jagtar Singh was brought to Bharat Brain Hospital, Bathinda, by his father Jagsir Singh on 12.12.2004 at about 7.00 PM. The CT scan of the patient showed skull fractures with left fronto-parietal extra dural haematoma. He proved the bed head ticket of Jagtar Singh vide Ex.PW.12/1.

16. Learned counsel appearing on behalf of the petitioner has vehemently argued that the accident had taken place due to fault of the car driver. According to him, the car struck against the rear door of the bus. Thereafter, the bus over turned from right side. DW.1 Balkaran Singh and DW.2 Pritam Singh have deposed that the accident took place due to rash and negligent driving of the car driver. According to them, the car had struck against the rear window of the bus, due to which bus over turned.

17. It is not believable that bus will over turn after struck by a smaller vehicle. The fact that the bus over turned itself proves that it was being driven in a very rash and negligent manner. The injured witnesses have categorically deposed that the bus in question was being driven at a very high speed in a rash and negligent manner. It has come in the statement of PW.2 Kuldeep Singh that Sukhwinder Singh, the bus driver, was known to him. The injured were admitted in Hospital. One of the injured, i.e. PW.3 Jagtar Singh, received serious injuries. Statements of DW.1 Balkaran Singh and DW.2 Pritam Singh do not inspire confidence. There was no occasion for the prosecution to falsely implicate the petitioner.

18. The learned appellate court has already reduced the sentence of

rigorous imprisonment for the period of two years imposed upon the petitioner under Section 338 IPC to six months, while upholding the remaining part of sentence awarded under Sections 279, 337 and 338 IPC. The accident had taken place on 12.12.2004. The petitioner has already gone through the trauma and agony of facing criminal case for almost 15 years. Hence, though his conviction under Sections 279, 337 and 338 IPC is upheld, but his sentence of imprisonment is reduced to the period already undergone.

19. The revision petition is, accordingly, disposed of.

May 24, 2019
ndj

(**RAJIV SHARMA**)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No