

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-852-2011

Date of Decision: 06.09.2019

Jaswinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Peeush Gagneja, Advocate, for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

Harnaresh Singh Gill, J.

The petitioner was tried for committing the offences under Sections 279, 337 and 338 IPC. Vide judgment and order dated 6.10.2008 passed by the learned Sub Divisional Judicial Magistrate, Talwandi Sabo, the petitioner was convicted for the aforesaid offences and sentenced as under:-

Section 279 IPC	To underto RI for six months and to pay a fine of Rs.500/- and, in default of payment of fine, to further undergo imprisonment for seven days.
Section 337	To underto RI for six months and to pay a fine of Rs.500/- and, in default of payment of fine, to further undergo imprisonment for seven days.
Section 338 IPC	To undergo RI for one year and to pay a fine of Rs.1000/- and, in default of payment of the fine, to further undergo imprisonment for seven days.

Aggrieved thereof, the petitioner filed an appeal before the learned Sessions Judge, Bathinda. Vide judgment dated 1.3.2011, the learned Additional Sessions Judge Bathinda, dismissed the appeal filed by the petitioner, thereby affirming the judgment and order passed by the trial Court.

Still aggrieved, the petitioner has preferred the present revision petition.

As per the prosecution, on 21.4.2003, complainant Kewal Singh along with Iqbal Singh, was sitting in the vacant place, adjoining the house of one Leela Singh. At 11.45 a.m., a bus of Dabwali Transport came from the side of village Sekhu, being driven in a rash and negligent manner and without blowing horn. The said bus struck against Gagandeep Singh, nephew of the complainant, who as a result thereof, had received injuries on various parts of his person. The driver after stopping the bus, had disclosed his name as Jaswinder Singh. People of the vicinity had gathered at the spot. The petitioner, in the meantime, fled away from the spot after leaving the bus there. The injured was shifted to the hospital. After treatment, he was discharged from the hospital in a stable condition. On the basis of the statement of the complainant FIR was registered against the petitioner under Sections 279, 337 and 338 IPC.

After completion of the investigation, challan was presented in the Court.

Charges under Sections 279, 337 and 338 IPC were framed against the petitioner to which he pleaded not guilty and claimed trial.

The prosecution in order to prove its case, had examined 5 witnesses, including PW1-Kewal Singh (complainant). In his statement under Section 313 Cr.P.C., the petitioner was confronted with the incriminating evidence, but he denied the same and pleaded false implication. In defence, the accused-petitioner had examined DW1-Ajaib Singh.

On the basis of the evidence led, it stood proved before the learned trial Court that on account of the rash and negligent driving of the petitioner, Gangandeep Singh (nephew of the complainant) had received injuries on various parts of his body. The injuries on the part of the person of the injured-Gagandeep Singh, were proved by PW7-Dr. Avnish Kumar. Though the injured was discharged from the hospital on 28.4.2003 in stable condition, yet the learned trial Court found the petitioner guilty under the aforesaid Sections and as noticed above, convicted him accordingly. The appeal filed by the petitioner was dismissed by the learned Additional Sessions Judge, Bathinda.

Today, at the very outset, learned counsel for the petitioner contends he does not lay any challenge to the finding of conviction recorded by the Courts below. He only craves the indulgence qua the sentence part. It is submitted that the

petitioner is 49 years of age and is suffering from a Neurological chronic disease. In this regard, the learned counsel has produced a copy of the certificate dated 5.6.2017 issued by the Medical Superintendent, Civil Hospital, Fazilka, wherein the factum of the petitioner suffering from the said disease and his disability to the extent of is 80%, is clearly reflected. The said certificate is taken on record and marked as 'Mark-A'. Besides, it is submitted that out of his substantive sentence of one year, the petitioner has already undergone 2 months and 26 days. It is further prayed that as the injured was discharged from the hospital hale and hearty and there was no loss of life in the accident in question, the sentence imposed upon the petitioner may be reduced to the one already undergone by him.

On the other hand, learned counsel while defending the findings recorded by the Courts below submits that the learned Courts below have rightly convicted the petitioner for the aforesaid offence. However, because of the medical condition and the disability suffered by the petitioner, the prayer for reduction of sentence to the one already undergone is not resisted.

Thus, taking into consideration the medical condition of the petitioner and the fact that the injured (Gagandeep Singh) in this case, had been discharged from the hospital hale and hearty and there was no loss of life, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again to undergo the remaining part of sentence. Rather, taking into the mitigating circumstances at the end of

the petitioner, ends of justice would be suitably met, if sentence imposed upon the petitioner is reduced to the period already undergone by him.

In view of the above, while upholding the conviction of the petitioners as recorded by the Courts below, his substantive sentence is reduced to the period already undergone by him, but without any modification in the fine part.

Disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

06.09.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No