

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

385 Criminal Revision No. 3832 of 2014 (O&M)
Date of Decision : 15.05.2019

Sunil Dutt

... Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Simranjit Singh, Advocate for the petitioner.

Mr. S.S.Cheema, AAG, Punjab.

HARNARESH SINGH GILL,J.

The present criminal revision has been filed by the petitioner being aggrieved by the judgment dated 29.09.2014 passed by the Additional Sessions Judge, Gurdaspur vide which criminal appeal filed by the petitioner against judgment and order dated 18.05.2013 passed by Judicial Magistrate Ist Class, Batala has been allowed. Vide the said judgment and order dated 18.05.2013, the learned Judicial Magistrate Ist Class, Batala while convicting the petitioner for the offences under Sections 279 and 338 IPC, sentenced him as under:-

<i>Under Section</i>	<i>Sentence</i>
279 IPC	Rigorous imprisonment for six months and a fine of Rs.500/-, in default, to further under go rigorous imprisonment for 15 days.
338 IPC	Rigorous imprisonment for two years and a fine of Rs.1000/-, in default, to further under go rigorous imprisonment for one month.

As per the prosecution story, the complainant-Jaswinder Kaur

had stated that on 29.06.2008 she along with her daughter Kulbir Kaur went to attend the bhog ceremony at village Cheema Khundi by bus. Both of them alighted from the bus at bus stop Cheema Khundi at about 10 a.m. and they were going on their left side on foot by road. When they reached near Dera, Sarpanch of village Cheema Khundi, namely, Gurmej Singh and Jagraj Singh were coming from the back side. Then four wheeler, Tata ACE, driven in a rash and negligent manner by one clean shaved person, on a high speed, came from Batala side. The said driver was in a drunken condition and hit the four wheeler into the complainant, namely, Jaswinder Kaur and her daughter, Kulbir Kaur, as a result of which her daughter fell down on road and became unconscious as she had received head injury. On seeing this, driver of the four wheeler fled away from the spot leaving the vehicle there. In the meantime, Sarpanch-Jagraj Singh came there and he got admitted Kulbir Kaur in Johal Hospital, Batala for the treatment from where she was referred to Ajit Hospital, Amritsar. Thus, the driver of four wheeler caused the accident by driving the same in a rash and negligent manner and caused multiple injuries to the daughter of the complainant i.e. Kulbir Kaur.

In the present case, the charges were framed against petitioner-Sunil Dutt under Sections 279, 337, 338 of IPC to which he pleaded not guilty and claimed trial.

The prosecution had examined complainant, namely, Jaswinder Kaur as PW-1, Sucha Singh as PW-2, ASI Tilak Raj as PW-3 and injured Kulbir Kaur as PW-4. Dr. Gulshan Sharma, Medical Officer also stepped into witness box as PW-5. The prosecution had also examined other witnesses in support of their case and accordingly, the

petitioner was convicted under Sections 279, 338 IPC whereas, he was acquitted of the charge framed under Section 337 IPC for want of medical evidence.

Aggrieved of the judgment dated 18.05.2013 passed by Judicial Magistrate Ist Class, Batala, the petitioner preferred an appeal which came up for hearing before the Additional Sessions Judge, Gurdaspur. The Additional Sessions Judge, Gurdaspur vide judgment dated 29.09.2014 upheld the judgment and order dated 18.05.2013 passed by Judicial Magistrate Ist Class, Batala and dismissed the appeal.

Still aggrieved of the judgment and order passed by the courts below the present revision petition has been preferred by the petitioner.

Learned counsel for the petitioner has outrightly confined his arguments to the quantum of sentence. As per the custody certificate, out of the total sentence of two years, the petitioner had already undergone 4 months and 15 days of actual sentence.

Counsel for the petitioner has further asserted that the petitioner is the first offender and no other case of any nature is pending or disposed of against the petitioner. He is the only bread earner of the family and has never misused the concession of bail during the trial. Even the petitioner has been facing the agony of trial for the last about 11 years.

Learned State counsel has produced the custody certificate dated 15.05.2019. As per the custody certificate, no other case is pending or decided against the petitioner and admittedly he has already undergone 4 months and 15 days of actual sentence out of the total sentence of two years.

I have heard learned counsel for the parties and have given my thoughtful consideration to the arguments raised by both the counsel and after going through the record, this Court is of the opinion that purpose of criminal law is to bring discipline, peace and harmony in the society and also to give an opportunity to erring individuals to reform themselves. It is apparent from the arguments and the records that sword of conviction has been hanging over the head of the petitioner for the last about 11 years. May be with the passage of time, he has reformed himself and now is living a peaceful life and if at this stage, he is ordered to undergo the remaining sentence awarded to him, it will rather have an adverse effect. Thus, the petitioner deserve leniency at the hands of this Court. Rather, denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large.

Thus, taking into consideration the above facts and circumstances, I do not find that any useful purpose would be served by sending the petitioner to jail at this point of time for undergoing the remaining period of sentence. Though ordinarily in an anti-social offence under the IPC, this Court should take a strict view of such matter, yet taking into consideration that the petitioner has not committed any such offence and has been living a disciplined life, sentence of the petitioner deserves to be reduced to the period already undergone by him.

Taking into consideration the cogent and trustworthy evidence produced by prosecution and well reasoned judgments and order of the Courts below, the findings recorded by the Courts below convicting and

sentencing the petitioner, do not call for any interference and the same are accordingly affirmed.

However, keeping in view the fact that the petitioner has already undergone 4 months and 15 days of actual sentence, I feel that ends of justice would be suitably met, if the sentence awarded to the petitioner is reduced to the period already undergone by him subject to payment of fine of Rs.10,000/-.

Accordingly, the conviction of the petitioner under Sections 279 and 338 IPC is maintained. However, sentence qua imprisonment of the petitioner, is reduced to the period already undergone by him. The petitioner is directed to pay Rs.10,000/- as compensation to injured- Kulbir Kaur within a period of one month from the date of the receipt of certified copy of this order. If any amount of fine has already been paid by the petitioner, the same will be adjusted accordingly. In case the amount of compensation is not paid, the revision petition shall stand dismissed.

With the aforesaid order, the revision petition is disposed of.

15.05.2019

pooja saini

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No