

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 3021 of 2019 (O&M)
Date of Decision: 06.12.2019

Sachin

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Nonish Kumar, Advocate
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 2.11.2019, passed by Sessions Judge, Rohtak, vide which the appeal filed by him, challenging the judgment of conviction dated 14.2.2019 and order of sentence dated 18.2.2019, passed by Additional Chief Judicial Magistrate, Rohtak in case FIR No. 363 dated 11.12.2013 under Sections 279, 337, 338, 427 IPC and Section 185 of Motor Vehicles Act, registered at Police Station Kalanaur, was dismissed.

The brief facts of the present case are that on 11.12.2013, complainant Bhup Singh made a complaint stating that he along with his brother Rakesh Singh was going on a motorcycle bearing registration No. HR-12B-2247 being driven by him whereas Rakesh Singh was the pillion rider. When they reached near the showroom of Bajaj motorcycle, one Duster vehicle bearing registration No. HR-26CB-4279, being driven in

hit the motorcycle. As a result of this, the complainant fell down on the *kacha* portion of the road whereas his brother was entangled in the left tyre of the Duster vehicle. The said vehicle had dragged his brother to a distance and thereafter, the said vehicle was stopped. The complainant and one passerby namely Ishwar rescued Rakesh Kumar and got him admitted in PGIMS, Rohtak. On the basis of the complainant made by Bhup Singh, the FIR in question was registered.

After completion of investigation and necessary formalities, challan was presented against the petitioner.

Charge was framed against the petitioner under Sections 279, 337, 338, 427 IPC and Section 185 of the Motor Vehicles Act to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as ten witnesses.

In the statement recorded under Section 313 Cr.P.C., the accused denied the prosecution case and pleaded innocence.

No witness was examined by the accused in his defence.

The trial Court vide judgement and order dated 14.2.2019 convicted the petitioner under Sections 279, 337 IPC and Section 185 of the Motor Vehicles Act and vide order dated 18.2.2019 sentenced him to undergo simple imprisonment for a period of three months and to pay a fine of Rs. 1000/- qua commission of offence punishable under Section 279 IPC. He was further sentenced to undergo simple imprisonment for a period of three months and to pay a fine of Rs. 500/- qua commission of offence punishable under Section 337 IPC and further sentenced him to pay a fine of Rs. 500/- qua commission of offence punishable under Section 185

of the Motor Vehicles Act. In default of payment of fine, he was to further undergo simple imprisonment for one month. Both the sentences were ordered to run concurrently.

The appeal preferred by the petitioner was dismissed by the Appellate Court vide judgment dated 2.11.2019.

During the course of arguments, counsel for the petitioner has confined his prayer only to the quantum of sentence imposed upon the petitioner.

Learned counsel for petitioner has submitted that the petitioner is in custody since 2.11.2019. The accident in question took place in December, 2013 and he has faced the agony of protracted trial for about 06 years. Learned counsel has further submitted that the petitioner is the sole bread winner of the family. The petitioner is not a previous convict. The accident in question was not a willful act on the part of the petitioner. On these premises, learned counsel for the petitioner prays that the substantive sentence imposed upon the petitioner may be reduced to the one already undergone by him.

Learned State counsel has opposed the prayer and submits that the petitioner drove the vehicle in rash and negligent manner and had caused injuries to Rakesh Kumar and the Courts below have already taken a lenient view.

I have heard the learned counsel for the petitioner and the learned State counsel.

As the prayer made by the petitioner is restricted only to the quantum of sentence, therefore, the findings recorded by the Courts below convicting the petitioner do not call for any interference and the same are

accordingly affirmed.

While coming to the sentence part, the petitioner is in custody for more than month out of the substantive sentence of three months imposed upon him. Taking into consideration that the FIR in the present case was registered on 11.12.2013 and petitioner has been facing the agony of trial for the last six years, in my opinion, no useful purpose would be served by keeping the petitioner behind the bars to undergo the remaining sentence. The ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him.

In view of the above, while upholding the conviction of the petitioner under Sections 279, 337 IPC and Section 185 of the Motor Vehicles Act, the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him.

The petitioner who is in custody, be set at liberty forthwith, if not required in any other case.

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

(HARNARESH SINGH GILL)
JUDGE

December 06, 2019
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No