

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

**Criminal Revision No. 3751 of 2018
Date of Decision: July 11, 2019**

Ajaib Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. P.P.S. Tung, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, A.A.G, Punjab.

SURINDER GUPTA, J.(Oral)

Heard.

As per case of the prosecution, a Pick Up Van No. PB-03-AC1033 driven by the petitioner hit the boom barrier of gate No. C-30 at railway crossing. The petitioner was arrested by the police at the spot. He was convicted and sentenced to undergo rigorous imprisonment for two years by the trial Court and his appeal against the judgment of conviction was also dismissed.

Learned counsel for the petitioner has not challenged the conviction of the petitioner as recorded by the Courts below. He has confined his submission only for taking lenient view qua the quantum of sentence. He submits that the petitioner is not a previous convict and he is only bread winner of the family. His vehicle had hit the gate at railway crossing as he could not apply the brake in time when the gate was being

downed. This has resulted in damage of ₹6000/- to Railways which the petitioner is ready to pay.

The custody certificate of petitioner produced by learned State counsel shows that he is not involved in any other case. As per the provisions of Section 160(2) of Railways Act, 1989, any person who breaks any gate or chain or barrier set up on either side of a level crossing shall be punished with imprisonment for a term which may extended to 5 years.

Keeping in view the nature of offence, antecedents of petitioner and that he is not a previous convict, I find reasons to accept the submissions put forth by learned counsel for the petitioner. This appeal is partly accepted. The conviction of the petitioner as recorded by the Courts below is upheld. The sentence of the petitioner as awarded by the Courts below is reduced to rigorous imprisonment for 10 months.

As submitted by learned counsel for the petitioner, the petitioner will deposit a sum of ₹10,000/-, as compensation for payment to railway department towards loss to the boom barrier caused by him, within a period of two weeks i.e. prior to his release from custody.

Copy of this order be conveyed to the trial Court.

July 11, 2019

Jyoti-II

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No