

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.3328 of 2018 (O&M)

Date of Decision: 27.02.2019

Jatinder Pal Singh @ Kala

---- **Petitioner**

versus

State of Punjab and others

---- **Respondents**

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Manuj Nagrath, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Harpinder Singh, Advocate for respondents No.2 to 4.

MAHABIR SINGH SINDHU, J. (Oral)

The present petition has been filed under Section 401 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') against the impugned judgment dated 20.09.2018 vide which an appeal filed by the petitioner against the judgment and order of conviction dated 20.09.2017 under Section 279, 337 and 338 of the Indian Penal Code (for short 'IPC'), passed by learned Judicial Magistrate Phillaur has been dismissed.

Prosecution in this case was initiated on the basis of statement of complainant-Raj Kumar to the effect that on 01.10.2014, he along with his wife-Balwinder Kaur (respondent No.3) as well as son-Tanvir Basra was going on a scooter from Phagwara to Phillaur. When they reached near village Atta, a private bus, driven in a rash and negligent manner, hit the scooter.

Consequently, complainant along with his wife and son fell down on the road

and tyres of the said bus ran over both legs of wife of the complainant- Balwinder Kaur which resulted into complete crushing of her right leg and left foot. Son of the complainant also sustained various injuries on account of the accident and thereafter, driver of the Bus fled away from the spot. Further on account of the injuries suffered by the complainant, his wife and son, they were brought to the Civil Hospital and on the basis of statement of the complainant an FIR No.163 dated 02.10.2014, under Sections 279, 337, 338 IPC, Police Station Goraya Distirct Jalandhar was registered.

After completion of the investigation, report under Section 173 Cr.P.C. was submitted and thereafter, charges under Sections 279, 337, 338 IPC were framed against the petitioner to which, he pleaded not guilty and claimed trial. Prosecution examined 09 witnesses, including respondent No.2- Raj Kumar as PW 1.

Convict-petitioner did not lead any evidence in his defence, but while making statement under Section 313 Cr.P.C., claimed innocence.

After hearing both sides and perusing the record, learned trial Court held the petitioner guilty of the offences under Sections 279, 337, 338 IPC and sentenced vide judgment and order dated 20.09.2017 in the following terms:

<i>Under Section</i>	<i>Sentence</i>	<i>In default of Fine</i>
279 IPC	Rigorous Imprisonment for six months and to pay fine of ₹ 1,000/-	To further undergo rigorous imprisonment for 15 days

337 IPC	Rigorous Imprisonment for six months and to pay fine of ₹ 500/-	To further undergo rigorous imprisonment for 15 days
338 IPC	Rigorous Imprisonment for 2 years and to pay fine of ₹1,000/-	To further undergo rigorous imprisonment for one month

It is contended by learned Counsel for the petitioner that now both sides i.e. petitioner as well as respondents No.2 to 4 have settled the matter amicably and the complainant party has no objection in case the sentence, imposed upon the petitioner, is modified to the extent of already undergone.

Learned counsel for respondents No.2 to 4 has also affirmed the factum of compromise entered into between the parties.

During the pendency of this petition, an application i.e. Criminal Misc. No.38421 of 2018 was filed seeking compounding of offences and setting aside the judgment of conviction and order of sentence on the ground that a compromise dated 12.10.2018 has been entered between both sides i.e. petitioner as well as respondents No. 2 to 4.

On the basis of the aforesaid compromise, this Court, vide order dated 21.11.2018 directed the parties to appear before the Mediation and Conciliation Centre of this Court for exploring the possibility of amicable settlement, if any.

In regard to compromise, a report dated 03.12.2018 has been received, showing that the parties have settled their dispute and they have no objection if the conviction of the petitioner is set aside.

Heard both sides and perused the record.

Present revision has been filed for setting aside the impugned judgment and order passed by both the Court below. Now both the parties have settled the dispute amicably and petitioner, instead of assailing the conviction, confined his prayer only regarding the quantum of sentence despite the fact that offences under Section 337 and 338 of the IPC are compoundable in view of the provisions of Section 320 Cr.P.C.

Facts of the present case reveal that the occurrence had taken place on 01.10.2014, FIR No. 163 was registered on 02.10.2014 and after facing the criminal proceedings petitioner was convicted and sentenced by learned trial Court vide judgment and order dated 20.09.2017. An appeal preferred against the said order was also dismissed by learned Sessions Judge, Jalandhar on 20.09.2018 and now the petitioner has filed the present revision and as such he is facing the criminal proceedings for the last more than four years.

As per custody certificate dated 24.02.2019 filed today in the Court, the petitioner has already undergone actual sentence of two months and two days out of the total sentence of two years and after registration of the present FIR he has not been found involved in any other criminal activity. Even otherwise the petitioner has satisfied respondents No. 2 to 4/victim out of the Court and they have agreed for the settlement, therefore, now sending the petitioner to undergo the remaining sentence will not serve any purpose.

Having regard to the aforesaid factual position, period of sentence already undergone and the factum of compromise, this petition is accepted to the limited extent that while the conviction is upheld, the substantive sentence of imprisonment is reduced from 2 years to the sentence already undergone by the petitioner.

Resultantly, the petition is partly accepted to the extent indicated above regarding reduction in quantum of sentence only.

Amount of fine, if not already paid, the same shall be deposited before the learned trial Court within 15 days from receipt of certified copy of this order.

Pending miscellaneous applications, if any shall also stand disposed off .

February 27, 2019
rashmi

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No