

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 105

Criminal Revision No.1466 of 2021
Date of Decision: *November 22, 2021*

Gurpreet Singh @ Gopi

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE SANT PARKASH**

. . .

PRESENT: - Mr. Roopak Bansal, Advocate, for the petitioner.

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Sant Parkash, J

Criminal Miscellaneous No.39449 of 2021

This is an application under Section 482 Cr.P.C. for
condonation of delay of 560 days in filing the present revision petition.

Notice of the application and the main case.

Mr. Tanvir Joshi, Assistant Advocate General, Punjab, who
is present in Court, accepts notice on behalf of State of Punjab.

Let complete copy of the application as well as the main
petition be supplied to learned counsel for the State, during the course of the
day.

Heard counsel for the parties.

For reasons given in the application, the same is allowed and
delay of 560 days in filing the revision petition is condoned.

Criminal Miscellaneous No.39450 of 2021

With the consent of learned counsel for the parties, let the main revision petition be taken up for hearing today.

Application stands disposed of accordingly.

Criminal Revision No.1466 of 2021

The petitioner has preferred the instant petition being aggrieved of judgment dated 23.01.2020 passed by the Additional Sessions Judge, Moga whereby appeal filed by him, challenging his conviction and order of sentence dated 12.06.2019, passed by the trial court in case FIR No.23 dated 27.01.2016 under Sections 279, 337, 338, 427 IPC, Police Station, City, Moga, has been upheld and appeal dismissed.

The brief facts of the case are that on 27.01.2016, complainant Nitya Nand alongwith one Sanjay Singh met the police party on patrolling, headed by HC Charanjit Singh near Kotkapura Bypass, Dhawan Palace, Moga, and got recorded his statement to the effect that on 20.01.2016 at about 05.45 pm, he alongwith Sanjay Singh was going from Moga towards Focal Point on cycle. When they reached near Dhawan Palace, their cycle was hit by a tanker of milk bearing registration No.PB-29-R-4525, belonging to ASK Carrier Company and driven by Gurpreet Singh (petitioner herein), as a result of which, the complainant and his companion sustained injuries. The complainant was got admitted at Civil Hospital, Moga by the petitioner with an assurance that he would get his treatment at his expenses which was not done. The aforesaid FIR was registered; petitioner was arrested on 28.01.2016 and investigation set in motion.

After completion of investigation, final report under Section 173 Cr.P.C. was present in the court of competent jurisdiction. Finding a *prima face* against the accused (petitioner), he was charge-sheeted under Sections 279, 337, 338 and 427 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined as many as five witnesses. However, examination-in-chief of PW-4, Sagar Bansal, owner of milk tanker, could not be complete despite opportunities and evidence of prosecution was closed by order of court dated 13.05.2019.

Statement of accused (petitioner) was recorded under Section 313 Cr.P.C. apprising him of all incriminating circumstances appearing against him in prosecution evidence to which he claimed innocence and pleaded false implication, however, no defence evidence was led.

The trial court vide judgment dated 12.06.2019 convicted the petitioner under Sections 279, 337, 338 IPC and sentenced him as under:

Offence	Sentence	Fine	Sentence in default of payment of fine
279 IPC	RI for 6 months	₹ 500/-	RI for 15 days
337 IPC	RI for one year	₹ 500/-	RI for 15 days
338 IPC	RI for one year	₹ 500/-	RI for 15 days

The appeal preferred by he petitioner was dismissed by the appellate court vide judgment dated 23.01.2020.

Still aggrieved, the petitioner preferred the present revision petition.

I have heard learned counsel for the parties and gone through the record of the courts below.

At the very outset of arguments, learned counsel for the petitioner has confined his arguments to the quantum of sentence only and did not challenge the conviction on merit. He prayed for a lenient view of the quantum of sentence.

As per the custody certificate dated 19.11.2021, produced by the State counsel today in Court, the petitioner has already undergone actual sentence of 7 months and 23 days out of total awarded sentence of 1 year. FIR in the present case was registered on 27.01.2016. However, taking into consideration that there is a shortfall of only 2 months (approximately), in my opinion, no useful purpose would be served by keeping him behind the bars to undergo a meager sentence of less than 2 months so as to make the total undergone sentence as one year. Rather, the said process would prove to be a cumbersome one, thereby causing unnecessary burden on the state exchequer as also harassment to the petitioner.

Accordingly, the conviction of the petitioner under Sections 279, 337 and 338 IPC is maintained. However, sentence qua imprisonment of the petitioner, is reduced to the period already undergone by him. The petitioner be set at liberty forthwith, if not required in any other case.

The petition stands disposed of with the aforesaid order.

**(Sant Parkash)
Judge**

November 22, 2021
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No