

CRR-704-2016

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-704-2016 (O & M)
Date of decision: 24.07.2023

Tarun Bhardwaj
...Petitioner

Versus

State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Mohd. Yousaf, Advocate,
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Custody certificate dated 22.07.2023 by way of affidavit of the Deputy Superintendent, District Prison, Gurugram, filed in the Court today, is taken on record.

The petitioner was tried in case bearing FIR No.96 dated 04.06.2012, registered at Police Station DLF Phase, Gurgaon, under Sections 279, 337, 304-A and 338 IPC. Learned Judicial Magistrate Ist Class, Gurgaon, vide judgment dated 22.07.2015, found the petitioner guilty for the offence punishable under Sections 279, 337 and 338 IPC and sentenced him as under:

<i>Section</i>	<i>Sentence</i>
<i>279 IPC</i>	<i>To undergo rigorous imprisonment for a period of three months.</i>
<i>337 IPC</i>	<i>To undergo rigorous imprisonment for a period of three months.</i>
<i>338 IPC</i>	<i>To undergo rigorous imprisonment for a period of six months.</i>

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However, the petitioner stood acquitted of the charge under Section 304-A IPC.

Aggrieved against his conviction/sentence, the petitioner preferred an appeal before the learned Addl. Sessions Judge, Gurgaon, which was dismissed vide impugned judgment dated 30.01.2016.

Still aggrieved, the petitioner has preferred the present revision petition.

During the course of hearing, learned counsel for the petitioner does not lay any challenge to the judgments of conviction of the petitioner recorded by the courts below and for that reason, the facts are not required to be reproduced here.

Learned counsel for the petitioner has made submissions only on the aspect of sentence on which this Court has heard him as well as the learned State counsel.

While making submissions qua the quantum of sentence, learned counsel for the petitioner would submit that the petitioner is a first offender; that he has no shady past; that he has been facing the agony of the trial since 2012; that he is the only bread winning member of his family, and that his conduct during the trial has been quite fair and *bona fide* and he has never obstructed the course of trial and the appeal. The petitioner has already undergone the actual sentence of 23 days. Under these circumstances, the sentence imposed upon the petitioner may be reduced to the one already undergone by him. In support of his contentions, learned counsel relies upon the judgment rendered by the Hon'ble Supreme Court in 'Prem Chand Vs. State of Himachal Pradesh', 2017 ALL MR (Cri)

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5358.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner, would submit that the sentence awarded to the petitioner is in proportion to the offence committed by him. The petitioner does not deserve any leniency.

I have heard the learned counsel for the parties.

Having heard the learned counsel for the parties and after a lucid examination of the record, this Court finds that both the courts below have rightly convicted and sentenced the petitioner under Sections 279, 337 and 338 IPC. There is no manifest error in the concurrent findings recorded by the courts below.

Thus, in my opinion, in view of the evidence on record, there is no scope for any interference in the findings of the Courts below, so far as the conviction under Sections 279, 337 and 338 IPC. Hence, the conviction of the petitioner under the aforesaid sections is upheld.

However, the fact remains that the present FIR was registered on 2012 and out of the substantive sentence of 06 months, the petitioner has already undergone the actual sentence of 23 days. Vide order dated 19.02.2016 passed by a Coordinate Bench, sentence awarded to the petitioner had been suspended during pendency of the present revision.

Taking into consideration the agony of trial faced by the petitioner for the period of 11 years, in my opinion, the ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him.

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In view of the above, while upholding the conviction of the petitioner under Sections 279, 337 and 338 IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him.

Disposed of in the above mentioned terms.

24.07.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No