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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRR-1827-2023 (O&M)
Date of Decision:20.09.2023

Bir Singh

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : **Hon’ble Mr. Justice N.S.Shekhawat**

Present: Mr. Anil Kumar Gahlawat, Advocate
 for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.Shekhawat J.

1. The petitioner has filed the present revision petition against the impugned judgment dated 03.08.2023, passed by the Court of Additional Sessions Judge, Gurugram and the impugned judgment of conviction dated 12.07.2019 and order of sentence dated 17.07.2019, passed by the Court of Chief Judicial Magistrate, Gurugram, whereby the petitioner was ordered to be convicted for the offences punishable under Sections 279, 337 and 338 of IPC and were sentenced as under:-

Under Section 279 IPC	Simple imprisonment for one month and to pay a fine of Rs.1000,/-.
Under Section 337 IPC	Simple imprisonment for three months and to pay a fine of Rs.500,/-.
Under Section 338 IPC	Simple imprisonment for one year and to pay a fine of Rs.1000,/-.

2. At the very outset, learned counsel for the petitioner submits that he does not wish to challenge the judgment of conviction of petitioner by both the Courts, however, a lenient view may be taken, while awarding the sentence

to the present petitioner. Even though, the petitioner has not laid any challenge to the impugned judgments, still this Court has examined the legality of the impugned judgments passed by both the Courts.

3. As per the case of the prosecution, on 20.09.2016, a medical ruqa was received in the Police Post from Aryan Hospital and it was informed that Prem Dhingra, injured had been admitted in the hospital for medical treatment of the injuries suffered by him in a road side accident. On this, a police team reached the hospital and moved an application to the concerned doctor, seeking the opinion regarding his fitness. However, the injured was not found. On 29.09.2016, the complainant himself came to the police station and lodged a report by averring that on 20.09.2016, he was on the way to the New Colony Turn, riding his Activa. When he reached at Colony, a vehicle bearing registration No.RJ-10TA-1300, being driven in rash and negligent manner came from the rear side and had hit his Activa. As a result of the said accident, he had sustained many injuries. He was shifted to the hospital by several passersby and remained admitted in the hospital for several days. After perusal of the report, under Section 173 Cr.P.C, charge was ordered to be framed under Sections 279,337 and 338 of IPC against the petitioner and he was ordered to be charge-sheeted and he pleaded his false implication in the present case.

4. In order to prove the charge against the petitioner, the prosecution examined 07 witnesses. PW-1 EHC Rajesh Kumar proved the mechanic report Ex.PW-1/A pertaining to the offending vehicle bearing No.RJ-10TA-1300. The prosecution further examined Prem Dhingra, complainant PW-2, who proved the complaint Ex.PW2/A, on the basis of which the present case registered and reiterated the contents of said complaint deposing about the guilt of the accused.

ASI Sunil Kumar appeared as PW-3 and proved the formal FIR Ex.PW3/A and endorsement Ex.PW3/B on their itself. The prosecution further examined Constable Roshan Lal as PW-4, Member of Investigating Agency and proved the arrest memo of accused Ex.PW4/A and recovery memo Ex.PW4/B pertaining to RC Ex.PA, Insurance Ex.PB & DL Ex.PC, being an attesting witness to aforesaid documents. He further deposed on identical lines of ASI Anil Kumar, PW-5. The prosecution further examined ASI, Anil Kumar, Investigating Officer, who reiterated the contents of challan/final report under Section 173 Cr.PC, deposing about the guilt of the accused. He proved the documents namely application/complaint Ex.PW2/A, tehrir Ex.PW5/A, site plan Ex.PW5/B, notice under Section 133 Motor Vehicles Act, Ex.PW5/C, arrest memo of accused Ex.PW4/A and recovery memo Ex.PW4/B pertaining to RC Ex.PA, Insurance Ex.PB & DL Ex.PC. Dr.Munish Kumar, Modern Diagnostic, New Railway Road, Gurugram appeared as PW-6 and proved his report Ex.PW6/A and X-Ray report of injured Prem Dhingra Ex.PW6/B. The prosecution further examined Dr. Dinesh Chandra, Senior RMO, Aryan Hospital, Gurugram as PW-7, who tendered his affidavit Ex.PW7/A regarding MLR of injured Ex.PW7/B. He further proved ruqa Ex.PW7/C and opinion Ex.PW7/D.

5. After the closure of the prosecution evidence, the statement under Section 313 Cr.P.C was recorded by the Court and again the petitioner pleaded his false implication by the police. Even though there was a delay of 09 days in reporting the matter to the police, but it could not have been ground for rejection of the case of the prosecution. The MLR of the complainant/injured Ex.PW7/B was conducted on 20.09.2016 itself and ruqa was immediately sent

to the police station for registration of the FIR. Even the treatment was provided to him in the hospital and by the time, the police moved an application for seeking opinion regarding the fitness of the injured, he had already left the hospital on 21.09.2016. Consequently, he could not meet the police on 21.09.2016 and his statement could be recorded in the present case on 29.09.2016 by the police. Thus, the delay of 09 days in registration of the present FIR stood explained properly. Apart from that, the prosecution examined PW-6, Dr.Munish Kumar, Modern Diagnostic, New Railway Road, Gurugram, who proved his report Ex. PW6/A and X-Ray report as Ex. PW6/B. It is apparent that two teeth of the complainant/injured were broken. Apart from that, the MLR Ex.PW7/B and the opinion Ex.PW7/D were duly proved by PW-7, Dr.Dinesh Chandra, who clearly stated that the complainant/injured had suffered certain simple and grievous injuries. Even the medical evidence was duly supported by the testimony of PW-2, Prem Dhingra, injured/complainant and the ocular account was duly corroborated by the medical evidence. Even otherwise, I have gone through the evidence as well as the findings recorded by both the Courts below and there is no serious infirmity or illegality in the impugned judgments and the same are liable to be upheld by this Court.

6. However, from the order of quantum of sentence, it is evident that the present petitioner was convicted to undergo simple imprisonment for a period of one month and to pay a fine of Rs.1000/- under Section 279 IPC, undergo simple imprisonment for a period of three months and to pay a fine of Rs.500/-,under Section 337 IPC and further undergo simple imprisonment for a period of one year and to pay a fine of Rs.1000/-,under Section 338 IPC. In the present case, during the course of hearing, learned State counsel has placed on

record the custody certificate of the petitioner and as per the same, the petitioner has already undergone 01 month and 18 days of actual custody, out of total sentence of 01 year. Apart from that, the occurrence in the present case had placed on 20.09.2016 and the present petitioner is facing the agony of the trial/appeal for the last seven years. Learned counsel for the petitioner submits that the petitioner is a poor person and is the sole bread earner of the family.

7. Consequently, the present petition is partly allowed and taking a lenient view in the matter, the order of sentence is modified to the extent that the sentence imposed on the present petitioner is reduced to the period already undergone by him in the present case. The petitioner is ordered to be released from the custody, if not required in any other case. However, the petitioner is directed to deposit a sum of Rs.20,000/- as compensation with the Court of Chief Judicial Magistrate, Gurugram within a period of 03 months from today and the Chief Judicial Magistrate, Gurugram is directed to disburse the said amount of compensation to the respondent/complainant after proper verification. Apart from that, the petitioner is also directed to deposit a sum of Rs.20,000/- as costs with **Punjab and Haryana High Court Bar Clerk's Association** within a period of 03 months from today. In case, the petitioner does not deposit the amount of costs and compensation, as indicated above, the present petition shall be deemed to be dismissed.

8. The present petition stands disposed off.

9. All other pending applications, if any, are also disposed off, accordingly.

20.09.2023

hitesh

(N.S.SHEKHAWAT)
JUDGE

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