

CRR-2300 of 2022 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2300 of 2022 (O&M)
Reserved on: 06.01.2023
Date of Pronouncement: 17.01.2023

Bagicha
.....Petitioner

Versus

State of Haryana
.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. D.S. Virk, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

NAMIT KUMAR, J.

This revision petition has been filed against the judgment of conviction dated 14.12.2015 and order of sentence dated 18.12.2015 passed by the Court of learned Judicial Magistrate Ist Class, Guhla, whereby petitioner was convicted and sentenced as under: -

Sr. No.	Under Section	Period of sentence	Fine	In default to undergo simple imprisonment
1.	279 IPC	S.I. for three months	---	---
2.	337 IPC	S.I. for three months	---	---
3.	332 IPC	S.I. for one year	Rs.1000/-	S.I. for two months
4.	353 IPC	S.I. for six months	---	---
5.	186 IPC	S.I. for one month	---	---

CRR-2300 of 2022 (O&M)

All the sentences were ordered to run concurrently.

Petitioner has also challenged the judgment dated 30.09.2022 passed by the Court of learned Additional Sessions Judge, Kaithal, whereby appeal, preferred by the petitioner against the impugned judgment of conviction and order of sentence of the trial Court, has been partly accepted and he has been acquitted of the charges under Sections 279 and 337 IPC and sentence awarded by the trial Court under Section 332 IPC has been reduced from one year to six months.

Brief facts of the case are that complainant HC Shakti Singh, got recorded his statement Ex. PW1/A, to the effect that he is posted at P.S.Cheeka as Head Constable. On dated 16.03.2015, he along with EASI Ramesh Chand and Constable Sham Lal, were on patrolling duty at Lal Park Road near Dost Tent House, Cheeka where informer gave secret information to him that one Bagicha (present petitioner) is doing the work of selling the smack who was coming after some time from the side of Pehowa road to Cheeka on the motor cycle without number and if they conduct the barricade then he would be apprehended along with smack. After receiving this information, he along with other police officials started the checking of the vehicles on the road and after some time, one motor cycle came from the side of Pehowa without number plate upon which two young boys were sitting. He gave signal for stopping the motorcycle but the driver of the motorcycle did not stop the motorcycle and hit the motorcycle to him, due to which he fell down on the ground. Other police officials tried to

CRR-2300 of 2022 (O&M)

catch them and both the accused started quarreling with them and also abused them. The accused persons fled away from the spot after leaving the motor cycle on the spot and thereafter, ASI Ramesh Chand told him that the name of the one boy is Bagicha who used to do the work of selling the smack in Cheeka and he did not know the second young boy and if he came before him then he would identify him. Then many people gathered at the spot and thereafter, ASI Ramesh Chand and Constable Sham Lal, arranged a private vehicle and took him into CHC, Guhla. This accident took place due to the rash and negligent driving of the petitioner, who hit his motorcycle to him and also started quarreling with him and other police officials on duty. Upon this statement, Investigating Officer prepared ruqa and sent in Police Station for registration of FIR. FIR No.33 dated 16.03.2015 was registered under sections 279, 337, 332, 353 and 186 IPC registered at Police Station Cheeka, Kaithal. Statements of witnesses under section 161 Cr.P.C. recorded. Site plan was prepared. Hence, upon other investigation, challan under sections 279, 337, 332, 353 and 186 IPC was presented before the Court.

After hearing learned counsel for the parties and on appreciation of evidence on record, the trial Court vide judgment of conviction dated 14.12.2015 and order of sentence dated 18.12.2015 held the petitioner guilty and sentenced him as stated above.

Against the judgment of conviction and order of sentence of the trial Court, petitioner preferred appeal before the appellate Court, which has been partly accepted and petitioner has been acquitted of the

CRR-2300 of 2022 (O&M)

charges under Sections 279 and 337 IPC and sentence awarded by the trial Court under Section 332 IPC has been reduced from one year to six months vide judgment dated 30.09.2022.

During the course of arguments, learned counsel for the petitioner has submitted that he does not wish to challenge the conviction of the petitioner on merits but would be satisfied if a lenient view is taken with respect to the sentence which has been awarded to the petitioner. In this regard he has submitted that incident is of the year 2015 and the petitioner has suffered the agony of trial for all these years. It is further submitted that petitioner has already undergone imprisonment for three months out of the total sentence of six months. Under these circumstances, the sentence imposed upon the petitioner may be reduced to the one already undergone by him.

In support of his arguments, learned counsel for the petitioner has relied upon order dated 23.07.2019 in ***CRR-1931 of 2010 titled as Chander Bhan Vs. State of Haryana*** where the petitioner had actually undergone sentence of 04 months and 07 days in a case under Sections 279 and 304-A IPC, this Court has suspended the sentence by imposing a fine of Rs.25,000/- and the judgment of the Hon'ble Supreme Court in ***State of Punjab Vs. Saurabh Bakshi, reported as 2015 (2) RCR (Criminal), 495*** was considered. Further reliance has been placed upon a judgment of this Court in ***CRR-4830-2016 decided on 08.03.2017 titled as "Balwinder Singh @ Binder Vs. State of Punjab"*** in which case also the sentence was reduced to four months in a case of conviction under Section 279/304-A IPC where rigorous

CRR-2300 of 2022 (O&M)

imprisonment was awarded for 02 years. In the said case also, the judgment of the Hon'ble Supreme Court in Saurabh Bakshi's case (supra) was considered. Further, reliance has also been placed upon case of *Jaswant Singh Vs. State of Punjab, CRR-1239- 2012 decided on 29.08.2019*, reported as *2020 (1) RCR (Criminal) 163*, in which also after taking into consideration the judgment of the Hon'ble Supreme Court in Saurabh Bakshi's case (supra), the sentence was reduced to already undergone.

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. He further submitted that petitioner is involved in one more case, however, he is on bail in that case.

I have heard the learned counsel for the parties and perused the record.

This Court is of the view that the incident is of the year 2015, the petitioner has suffered agony of trial for all these years and as per custody certificate dated 05.01.2023 he has already undergone actual sentence for a period of 03 months and 08 days out of total sentence of six months and thus keeping in view these facts and circumstances as well as the judgments relied upon by learned counsel for the petitioner, it is ordered that sentence awarded to the petitioner is reduced to the period already undergone by him. The same would, however, be subject to deposit of costs of Rs.10,000/- with the Punjab and Haryana High Court

Lawyers' Welfare Fund within a period of one month from today. It is

CRR-2300 of 2022 (O&M)

made clear that in case the aforesaid amount of Rs.10,000/- is not deposited within the stipulated period, then the present revision petition would be deemed to have been dismissed.

Impugned judgment of conviction stands affirmed with above modification. The sentence of fine however, shall stand maintained, if not so paid.

Disposed of. All pending applications, if any, stand disposed off.

17.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No