

CRR-1087-2011
Date of decision: 12.05.2025

...PETITIONER

V/S

...RESPONDENT

Present: Ms. Nisha, Advocate as *amicus curiae*
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 18.04.2011 passed by learned Sessions Judge, Kapurthala, vide which, judgment of conviction and order on quantum of sentence dated 18.01.2010 passed by learned Additional Chief Judicial Magistrate, Kapurthala, have been upheld, in case stemming from FIR No.172 dated 17.11.2004 registered under Sections 279/337/338 of IPC at Police Station Subhanpur and the petitioner was sentenced as under :

Offence under Section(s)	Sentence
279 IPC	RI for 03 months with a fine of Rs.500/-, in default of payment of fine, to further undergo RI for 15 days.



337 IPC	RI for 03 months with a fine of Rs.500/-, in default of payment of fine, to further undergo RI for 15 days.
338 IPC	RI for 06 months with a fine of Rs.500/-, in default of payment of fine, to further undergo RI for 15 days.
It was ordered that all the sentences shall run concurrently.	

2. Brief facts of the case set up by the prosecution are that on 17.11.2004, complainant-Mukesh Kumar got recorded his statement before ASI Brij Lal to the effect that on 15.11.2004, at about 4:30 PM, when he along with Varinder was going from Jalandhar to Nadala on separate motor-cycles, a Punjab Roadways bus of Patti bearing registration No.PB-12-C-9563 came from the side of Subhanpur, being driven in rash and negligent manner and hit into the motor-cycle of Varinder, who suffered multiple injuries on his head and forehead. Hence, the FIR (*supra*) was registered.

3. Learned counsel for the petitioner *inter alia* contends that there is an inordinate and unexplained delay of two days in registration of the FIR (*supra*) as the alleged incident has taken place on 15.11.2004, however, the FIR (*supra*) was registered on 17.11.2004. She further contends that presence of the complainant, at the spot, is doubtful. She submits that the prosecution has miserably failed to prove that the petitioner was responsible for driving the vehicle in a rash and negligent manner, in fact, the incident has taken place due to the negligence of the injured, namely, Varinder Singh. She further



submits that no independent passenger from the bus has been examined by the prosecution. Lastly, she submits that as per his custody certificate, the petitioner has undergone actual period of 01 month and 13 days, out of total sentence of six months, awarded by learned trial Court and is not involved in any other case.

4. *Per contra*, learned State counsel opposes the prayer of the petitioner as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has also been upheld by the learned lower Appellate Court and as such, he does not deserve any leniency.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. In ***Deo Narain Mandal v. State of UP (2004) 7 SCC 257***, a Three Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

7. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala v. State of AP AIR 2017 SC 1166***, has reiterated that the



imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. It transpires that the petitioner was convicted under Sections 279/337/338 of Indian Penal Code, for which no minimum punishment has been prescribed.

9. The FIR in the present case was lodged on 17.11.2004 and the petitioner has been suffering the agony of trial for the last more than 20 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. As per his custody certificate, the petitioner has undergone a period of 01 month and 13 days, out of total sentence of six months, awarded by learned trial Court and he is not involved in any other case.

10. Since there is no minimum punishment prescribed under Sections 279/337/338 of IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

11. Consequently, the present petition is disposed of and the



judgment dated 18.04.2011 passed by learned Sessions Judge, Kapurthala affirming the judgment of conviction is upheld, however, the order of sentence dated 18.01.2010 is modified to the extent that the sentence of rigorous imprisonment for six months and a fine along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.

May 12, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |