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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-903-2017
Date of decision: 27.01.2025

AALAMDDIN

V/S

STATE OF HARYANA

...PETITIONER

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. Neeraj Sheoran, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 16.02.2017 passed by learned Additional Sessions Judge, Nuh, vide which, judgment of conviction dated 08.09.2016 and order on quantum of sentence dated 17.09.2016 passed by learned Judicial Magistrate Ist Class, Mewat in case bearing FIR No.549 dated 15.10.2011 registered under Sections 279/337/338/427/304-A IPC at Police Station Nuh have been upheld.

2. The petitioner was sentenced as under:

Offence under Section(s)	Sentence
279 IPC	A fine of Rs.1,000/-.
337 IPC	A fine of Rs.500/-.
304-A IPC	RI for 01 year.
In default of payment of fine to undergo SI for 06 months.	

3. Brief facts of the prosecution case are that ASI Bhagwat Parshad alongwith Ct. Mahesh was present on crime patrolling duty at Tehsil Nuh, where on receiving telephonic information regarding accident at Delhi Alwar



road Near Tikona Kadla turn, they reached at CHC Nuh and received rukka and MLR of injured Sajid from the doctor and it came to their knowledge that injured were referred to Safdarzang hospital Delhi, for treatment and they found witness Ash Mohd, who stated that he alongwith Isra son of Mora was having tea at about 6 O'clock in the evening at tea stall, where a dumper, driven in rash and negligent manner, by unknown driver, came from the side of bus stand and at the same time three boys came in their motor-cycle from Nuh side and when they crossed the tea stall, Hywa-dumper hit their motor-cycle from front side due to which, all three boys fell down on the road alongwith their motor-cycle and he, Hakam and other persons ran towards place of occurrence and in front of them, driver of Hywa-dumper ran away from the spot and he can identify him if he comes in front of him and when he reached near the motor-cycle, he found that his brother's son (Bhatija) Sahid Aklas and Sajid received severe injuries on their head and other body parts and they were bleeding and at the same time Azrudeen came at the spot and injured were taken to CHC Nuh for treatment. He also stated that number of Hywa was HR-73-1661 and several persons gathered at the spot and motor-cycle bearing No. HR-27C-7791 also got damaged in the said accident. He also stated that accident was done by driver of dumper who was driving the vehicle in rash and negligent manner and requested to take legal action against him. On the basis of aforesaid statement, FIR (*supra*) was registered.

4. The petitioner was convicted and sentenced vide judgment and order dated 08/17.09.2016 passed by learned trial Court, which has also been upheld by learned lower Appellate Court vide judgment dated 16.02.2017.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 16.02.2017 on merits and restricts



his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. Petitioner has undergone a total period of 03 months and 24 days, including remission and custody after conviction.

6. *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.

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

8. 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. 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.

9. 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. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

10. The FIR in the present case was lodged on 15.10.2011 and the petitioner has been suffering the agony of protracted trial for last 13 years. Since his conviction, the petitioner has grown into law-abiding citizen and desire to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone total sentence of 03 months and 24 days, including remission out of total sentence of one year, in the instant case.

11. Accordingly, 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.

12. Consequently, the present petition is disposed of in the following terms:-

- (i) The judgment dated 16.02.2017 passed by the learned Additional Sessions Judge, Nuh, affirming the judgment of conviction dated 8.9.2016 is upheld, however, the order of sentence dated 17.09.2016 is modified to the extent that the sentence of rigorous



imprisonment for one year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to the fine of an amount of Rs.10,000/- upon the petitioner.

(ii) The petitioner is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

January 27, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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