





C.M.C Ludhiana for obtaining fitness of the injured. Thereafter, HC Gurdev Dass and ASI Jiwan Kumar visited C.M.C. Ludhiana and obtained the opinion of the doctor but injured Pawan Kumar was declared unfit by the doctor. The guardians of the injured assured to get the statement of the injured recorded after his recovery by visiting the police station. After discharge from the hospital, the Investigating Officer visited the house of the injured for 2/3 times but he did not meet him and it was told that the injured has gone to take medicine. On 03.07.2001, ASI Jiwan Kumar alongwith constable Lal Singh was present in the Civil Hospital in connection with investigation of a case under Section 324 IPC, where injured Pawan Kumar met him and got his statement recorded to the effect that he is depot holder in village Sher Pur Salind. On 11.06.2001, he alongwith Tarsem Lal son of Charan Dass Sud, who is dealing in 'Tea' and is Commission Agent, were traveling in C.T.R. Bus Service owned by Tunia Ram and sons bearing No. PB-30-B-9190. They were sitting on the seat meant for three passengers one seat ahead of the Emergency door and they were coming from Ludhiana to Hoshiarpur. He was sitting on the outer seat and the window was open. The bus was full of passengers to its capacity. The name of the accused came to light afterwards as Nirmal Singh son of Kesar Singh, resident of Dhandari Kalan, P.S. Focal Point, Ludhiana. He was driving the bus at a very high speed and rashly. At about 8-30 P.M., when the bus crossed the turning of Kahri Sahri reached at some short distance of Punge Peeran's site, then a canter came from the opposite side. Nirmal Singh earlier did not provide the side to the canter to pass but thereafter turned the bus at once due to which the said canter struck against the right side of the bus and



Anglorn struck in the window and chopped off his arm from the shoulder. He and Tarsem Lal raised Raula and the bus stopped at a distance of half furlong. He was brought to Civil Hospital, Hoshiarpur in the same bus and on 12.06.2001, he was referred to C.M.C. Ludhiana and he remained admitted till 21.06.2001, thereafter also he has been getting himself treated from C.M.C. Ludhiana due to which he could not get his statement recorded while coming in the police Station. On 03.07.2001, he visited Civil Hospital, Hoshiarpur in the company of his brother Shesh Pal, where he has got his statement recorded. The Investigating Officer read over the statement to the complainant who signed the same in token of its correctness. The Investigating Officer made endorsement on the above statement and sent the same to the police station on the basis of which formal F.I.R. was recorded. The Investigating Officer visited the place of accident, prepared rough site plan, recorded the statements of the witnesses and after completion of investigation, challan against the accused was presented in the court.

3. On presentation of the challan, the petitioner was charge-sheeted under Section 279/338 of IPC, to which, he pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined PW-1 Pawan Kumar, PW-2 Tarsem Lal, PW-3 ASI Jiwan Kumar, PW-4 HC Gurdev Dass, PW-4 Dilbag Singh, ASI, PW-5 ASI Dildar Singh, PW-6 HC Harbhajan Singh, PW-7 ASI Dildar Singh, PW-8 Gopal Krishan and thereafter, the prosecution evidence was closed.

5. After closure of the prosecution evidence, the statement of the petitioner under Section 313 Cr.P.C. was recorded and all the incriminating



circumstances were put to him. However, he denied all allegations and pleaded false implication in the present case. The petitioner chose not to lead any defence evidence.

6. At the very outset, learned counsel for the petitioner submits that he does not wish to challenge the judgment of conviction passed against the petitioner by both the Courts, however, some leniency may be shown, while awarding the sentence on him. Even though, learned counsel for the petitioner has not challenged the judgment of conviction, still this Court has examined the entire case on merits in the light of the evidence led by the prosecution.

7. Learned State counsel contended that the petitioner does not deserve any concession regarding sentence and the present revision petition be dismissed.

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

9. In the present case, to prove the offence, the prosecution had examined Pawan Kumar, injured as PW-1 and Tarsem Lal, eye-witness as PW-2. Both the witnesses have categorically deposed that the present petitioner was driving the offending vehicle in a rash and negligent manner. Although, both witnesses were subjected to cross-examination by the defence counsel, nothing material could be elicited from their testimonies to discredit their statements in any manner. Apart from that, the prosecution further examined PW-3, ASI Jiwan Kumar, who stated that as and when he visited the house of the injured, he was informed by the family that the injured had gone to take medicine.

Thus, the priority of the family was to provide the best possible treatment to the



injured and there was no delay in registration of the FIR. Even PW-3 ASI Jiwan Kumar had moved an application to the Medical Officer with regard to fitness of injured Pawan Kumar to make statement, but he was declared unfit to make the statement. Still further, the investigation in the present case was proved by the statements of PW-4 Dilbag Singh, ASI, PW-5 ASI Dildar Singh and PW-6 HC Harbhajan Singh. Even PW-8 Gopal Krishan Agnihotri had proved the chit Ex.P-1. Thus, the prosecution has led sufficient evidence to prove the essential ingredients of the offences under Sections 279 and 338 IPC, and the conviction of the petitioner is hereby upheld. Still further, I have carefully perused the findings recorded by the trial Court as well as the Appellate Court and both the judgments call for no interference by this Court and the impugned judgments of convictions are upheld.

10. Now, advertent to the order on quantum of sentence, it is apparent from the trial Court record that the petitioner is facing the agony of trial/appeal/revision since 03.07.2001 i.e. for the last more than 25 years. Moreover, out of total sentence of 08 months, the petitioner had already undergone 03 months and 13 days of actual custody and was never involved in any other crime. Even the sentence imposed on the petitioner was suspended by this Court on 19.03.2010 and in the last about 15 years, he has maintained good conduct. Still further, the petitioner is the sole bread earner of the family. Thus, keeping in view the aforesaid fact, the sentence imposed on the petitioner is reduced to the period already undergone by him.



11. With the above modifications, the present revision petition is partly allowed and the judgment of conviction is upheld, whereas, the sentence imposed on the petitioner is reduced to the period already undergone by him.

12. Pending applications, if any, stand also disposed of, accordingly.

13. I record my appreciation for Amicus, who has rendered able assistance to the Court and fee of Amicus Curiae is assessed Rs.20,000/-, which shall be paid by High Court Legal Services Authority, as per rules and practices.

(N.S.SHEKHAWAT)
JUDGE

07.04.2026

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