

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Criminal Revision No.1748 of 2005.

Decided on:-August 26, 2015.

Ravinder Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. T.S. Sangha, Senior Advocate with
Mr. J.S. Lalli, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab
for the respondent-State.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition challenging judgment dated 25.8.2005 passed by learned Sessions Judge, Fatehgarh Sahib, whereby the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 18.3.2004 passed by learned Additional Chief Judicial Magistrate, Fatehgarh Sahib in case FIR No.239 dated 14.12.1999 under Sections 279 and 304-A IPC, registered at Police Station Sirhind, District Fatehgarh Sahib, was dismissed.

The trial Court vide judgment and order dated 18.3.2004 had

convicted and sentenced the petitioner as under:

U/S	Sentence	Fine	In default
279 IPC	Rigorous imprisonment for six months	Rs.1,000/-	15 days
304-A IPC	Rigorous imprisonment for one year	Rs.1,000/-	15 days

However, the trial Court had ordered that both the sentences shall run concurrently.

Briefly stated, the case of the prosecution is that on 14.12.1999 complainant Kuldeep Singh son of Gurdev Singh, resident of village Kalsana, Police Station Bhadson, District Fatehgarh Sahib had got recorded his statement to the police. As per the statement, the complainant is working in Manmohan Steel Mill, Mandi Gobindgarh. They are four brothers and sisters. His brother Avtar Singh who was working as a pump operator in Public Health Department for the last four years, did not come to his village for the last 3-4 days. The complainant and his uncle Bagga Singh had gone to village Jallaha water works on his scooter bearing registration No.PCX-9379 and found Bharat Lal Chowkidar at water works. They enquired about Avtar Singh from the said Chowkidar. He informed that there was marriage of niece of Darbara Singh Namberdar and Ravinder Singh who is servant of Colonel and Avtar Singh had gone to leave the tables and chairs used for marriage ceremony in a tractor-trolley. Thereafter, the complainant and his

uncle went towards Mandi Gobindgarh on their scooter. However, when they were little behind Mandi Gobindgarh Octroi Post, they saw his brother Avtar Singh was sitting on the mudguard of the tractor Mahindra 585 red-coloured. When they tried to slow down the speed of the tractor by taking their scooter near the tractor, accused Ravinder Singh instead of slowing down the speed of the tractor had accelerated the tractor in a high speed and in a zigzag manner. As a result thereof, Avtar Singh i.e. brother of the complainant fell down on the road and left rear back tyre of the tractor ran over his left thigh and tyre of the trolley also ran over. It was around 11.30 p.m. They asked Ravinder Singh to stop the tractor but he fled away along with the tractor. Avtar Singh died at the spot. Therefore, the accident had occurred due to high speed and rash and negligent driving of the tractor driver, namely, Ravinder Singh.

On the basis of the statement of the complainant, investigation was carried out. Statements of the witnesses were recorded. Post-mortem on the dead body of Avtar Singh was conducted and on 15.12.1999, the petitioner was arrested. However, he was released on bail. The tractor involved in the accident bearing registration No.PB-23B-1165 along with its registration certificate, insurance policy and driving licence of accused Ravinder Singh were taken into possession vide separate recovery memo.

As provided under Section 207 Cr.PC, the accused appeared in the Court and documents were supplied to him free of costs followed by framing of charge.

The trial Court vide its judgment and order dated 18.3.2014 had convicted the petitioner and sentenced him to undergo the sentence as indicated above.

The petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Sessions Judge, Fatehgarh Sahib. However, learned Sessions Judge vide judgment dated 25.8.2005 dismissed the appeal. It is in these circumstances that the petitioner has filed the present revision petition challenging the verdict of the courts below.

Learned counsel for the petitioner has contended that present is a case where the petitioner cannot be held guilty for the offences charged with. He submits that the deceased was sitting on the mudguard of the tractor instead of the trolley which was attached with the tractor. The accident had occurred in the night. Tractor-trolleys are not equipped with shockers and the petitioner as well as deceased Avtar Singh were known to each other and it was on account of the casualness on the part of the deceased, he fell down from the tractor. Learned counsel has, therefore, contended that the petitioner cannot be held liable except to the extent of contributory negligence. He has further contended that the roads in the State of Punjab are not smooth in nature and, therefore, jerks while driving a tractor-trolley are bound to be there.

However, after addressing his arguments, learned counsel for the petitioner has confined his arguments qua the quantum of sentence. He

has contended that as against the awarded sentence of one year, the petitioner has remained in custody for about 1½ months. He has further contended that the FIR in question was registered on 14.12.1999 and since then, the petitioner is consistently facing mental agony about the pendency of the criminal case against him. There is no other criminal case pending against him. Learned counsel has further contended that the petitioner is a first time offender and prays for a lenient view by considering long pendency of the proceedings as well as the fact that there is no other criminal case pending against him. He, therefore, prays that the sentence of the petitioner be reduced to the period already undergone by him.

Learned counsel for the petitioner has further submitted that the legal heirs of deceased Avtar Singh have already been awarded compensation by the Motor Accidents Claims Tribunal under the Motor Vehicles Act, 1988 and have duly been compensated in terms of money.

Learned counsel for the petitioner has relied upon ***Tarlochan Singh Versus State of Punjab 2012(1) RCR (Criminal) 909*** wherein this Court while maintaining the conviction of the petitioner had released him on probation under Section 4(1) of the Probation of Offenders Act, 1958 for a period of one year on furnishing his personal bond and undertaking with one surety to the satisfaction of learned trial Court that he will keep peace and be of good behaviour.

I have heard learned counsel for the parties.

The Hon'ble Supreme Court in a recent judgment in ***State of***

M.P. Versus Mehtaab 2015(1) RCR (Criminal) 1008 has held that when the accused was found guilty of causing death by negligence, the High Court was not justified in reducing sentence of imprisonment to the period of 10 days without awarding any compensation to the legal heirs of the deceased. As such, the Apex Court while modifying the order passed by the High Court had held that the order of the High Court can be upheld only with the modification that the accused will pay compensation to the heirs of the deceased. This judgment was also followed by this Court in ***Criminal Revision No.429 of 2015 decided on August 05, 2015*** titled as ***Surinder Singh Versus State of Punjab***.

Considering the fact that the mode of travelling in the present case was a tractor-trolley and the persons travelling in the same are required to be more conscious than travelling in other transportation vehicle. This Court feels that even the deceased was also required to be extra-conscious while travelling in a vehicle like tractor-trolley which gives more jerks than any other normal vehicle. But since the learned counsel for the petitioner has confined his arguments on the quantum of sentence, in the background that the petitioner is suffering the agony of trial since 1999, when the FIR was registered and further as against the total sentence of one year, he has remained in custody for the last about 1½ months and there is no other criminal case pending against the petitioner, this Court feels that the ends of justice would be met in case the conviction of the petitioner-accused is upheld but the sentence awarded to him is reduced to the period already

undergone by him.

Accordingly, the conviction of the petitioner-accused is upheld but the sentence is reduced to the period already undergone by him. However, this Court, in the light of *Mehtaab's case (supra)* directs the petitioner to pay compensation of Rs.20,000/- to the legal heirs of deceased Avtar Singh within three months from today failing which he shall be liable to undergo imprisonment as awarded by the trial Court and affirmed by the lower appellate Court.

With the aforesaid modification, the present revision petition is disposed of.

August 26, 2015
'Yag Dutt'

(HARI PAL VERMA)
JUDGE