

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1050-2007 (O&M)
Date of Decision: October 28, 2015

Rashpal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Deepak Sabharwal, Advocate,
for the petitioner.

Mr. P.S. Paul, DAG, Punjab,
for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Challenge in this criminal revision petition is to the judgment dated 26.5.2007, passed by learned Sessions Judge, Kapurthala, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offences punishable under Sections 279 and 304-A, IPC, recorded by learned Sub-Divisional Judicial Magistrate, Phagwara, was dismissed after modification in the substantive sentence for the offence punishable under Section 304-A, IPC.

At the very outset, Mr. Deepak Sabharwal, learned counsel for the petitioner, submits that in view of concurrent findings of both the Courts below, he does not propose to challenge the conviction of the petitioner. He, however, submits that the accident had taken place about twelve years ago, since then the petitioner is facing the agony of trial, appeal and present criminal revision petition; the petitioner has two minor children; during pendency of the trial, appeal and present revision petition, the petitioner was released on bail, but he did not misuse the said concession, except the fact that due to personal difficulty, his lawyer could not appear before this Court on few dates; during pendency of the present revision petition, the petitioner also met with an accident and suffered permanent disability to the extent of ten percent; the petitioner is the sole bread-winner for his family; and that the benefit of the shortcomings in the prosecution case could not be extended to the petitioner by learned Courts below, but those can very well be considered while considering the quantum of sentence in the present case. He further submits that the petitioner is neither required nor involved in any other case except the case in hand. He has also pointed out that the petitioner has suffered incarceration for more than four months and, as such, his

sentence may be reduced to the period already undergone by him. After obtaining instructions from Rashpal Singh (petitioner), who is present in the Court, it has also been stated by learned counsel for the petitioner at the bar that a claim petition was filed by the dependents of Daya Ram (since deceased) and an amount of ₹4,25,000/- (Rupees four lacs and twenty-five thousand only) alongwith interest was awarded to them by the learned Motor Accidents Claims Tribunal.

Learned counsel for the State submits that learned Sessions Judge, Kapurthala, while dismissing the appeal filed by the petitioner, has already considered various aspects and only thereafter reduced the substantive sentence of rigorous imprisonment for two years to rigorous imprisonment for one year and six months for the offence punishable under Section 304-A, IPC, and, as such, there is no scope for further reduction of the substantive sentence in the present case. However, he fairly concedes that the petitioner has suffered incarceration for more than four months and that he is neither required nor involved in any other case as per the jail record available with him.

I have heard learned counsel for the parties and with their able assistance gone through the material available on

record.

Though learned counsel for the petitioner has proposed not to argue the case on merits, but to satisfy the conscience of this Court, the material available on record has been re-scanned. The depositions of Manjeet Singh (PW-2), informant/eye-witness, and Dharam Vir (PW-3), yet another eye-witness, would clearly show that while driving Truck No. JK-02-M-8634, in a rash or negligent manner, the petitioner hit the tractor and thereafter both vehicles crushed Daya Ram (since deceased), a rickshaw puller. In support of its case, the prosecution examined as many as seven prosecution witnesses. With the assistance of both the counsel, the depositions of all the witnesses have been read in the open Court.

From the material available on record, this Court finds that the conviction of the petitioner for the offences punishable under Sections 279 and 304-A, IPC, is well based and, as such, learned counsel for the petitioner has rightly opted not to challenge the conviction of the petitioner.

However, there appears to be substance in the submissions of learned counsel for the petitioner that the petitioner is a first offender; the occurrence had taken place about twelve years ago and since then the petitioner is facing

agony of trial, appeal and present criminal revision petition; during pendency of the present case, the petitioner was released on bail, but he did not misuse the said concession, except for few dates when his lawyer could not appear before this Court; the petitioner is the sole bread-winner for his two minor children and wife; as per statement made at the bar, a sum of ₹4,25,000/- (Rupees four lacs and twenty-five thousand only) alongwith interest has been awarded in favour of the dependents of Daya Ram (since deceased) by learned Motor Accidents Claims Tribunal; and that the petitioner has already suffered incarceration for approximately four months, therefore, the substantive sentence of the petitioner for the offence punishable under Section 304-A, IPC, is reduced from rigorous imprisonment of one year and six months to rigorous imprisonment for eight months. The fine imposed for the said offence and the sentence in default passed by learned Trial Court and affirmed by learned Sessions Judge, Kapurthala, are maintained. The sentence of rigorous imprisonment for six months for the offence punishable under Section 279, IPC, shall remain undisturbed. Both the sentences shall run concurrently.

With the above modification in the order of sentence, the present criminal revision petition is partly allowed.

The petitioner is already in custody, therefore, he will undergo the remaining part of the jail imprisonment as ordered by this Court.

The records received from learned Courts below be sent back forthwith alongwith a copy of this judgment for compliance.

(NARESH KUMAR SANGHI)
JUDGE

October 28, 2015
P Kapoor