

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-271-2002

Date of decision: 12.08.2015

Jaspal Singh

... Petitioner

Vs.

U.T., Chandigarh

... Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Mandeep Kaushik, Advocate
for the petitioner.

Mr. A.S. Virk, Addl. PP, U.T., Chandigarh.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

RAMESHWAR SINGH MALIK, J.

Present criminal revision petition is directed against the impugned judgment dated 01.02.2002 passed by learned Additional Sessions Judge, Chandigarh, whereby appeal of the petitioner against the impugned judgment of conviction dated 10.10.2000 passed by learned Judicial Magistrate 1st Class, was dismissed, upholding the impugned judgment of conviction and order of sentence of the petitioner, for the offences punishable under Sections 279/304-A of the Indian Penal Code ('IPC' for short).

Brief facts of the case, as noticed by the learned Additional Sessions Judge in para 2 of the impugned judgment, are that the Station House Officer of Police Station, Central, Chandigarh laid a charge-sheet against the

petitioner in the Court of Illaqa Magistrate, Chandigarh to stand his trial for the offences under Sections 279, 337 and 304-A IPC. The facts of the case of the prosecution are that on 16.05.1994, Investigating Officer of this case SI Prem Chand received an information regarding an accident. That he accompanied by Constable Bahadur Singh reached at the place of accident near Cricket Stadium Chowk. That complainant Mohan Lal met him there and made his statement. Complainant Mohan Lal stated in his statement to SI Prem Chand that on 16.05.1994 his son was admitted to PGI, at Sector-12, Chandigarh. That on that date, the complainant was proceeding on his by-cycle on the road of Sectors 22/23, Chandigarh. At about 8.30 P.M., when the complainant reached 300 steps behind the Stadium Chowk, a Moped driver crossed him from behind and went ahead. That a scooter being driven by a clean shaven person was coming from his front side. That the scooterist was driving the scooter rashly and negligently and was proceeding from the side of Cricket Stadium. That the scooterist struck the scooter into the Moped by driving it rashly and negligently. That the driver of the Moped fell down and the scooterist was also unable to balance himself and fell down. That the driver of the Moped was Deepak Anand, who was nephew of Mohan Lal from the relations. The driver of the Moped sustained injuries on his head and the scooterist disclosed his name as Jaspal Singh son of Santokh Singh, resident of House No.1519, Sector 47-D, Chandigarh. The number of scooter was CH-01-J-358 and the number of the Moped was CH-01-A-9417. That the Moped driver was removed to the hospital. The complainant stated in his statement to SI Prem Chand that the accident took place due to rash and negligent driving of Jaspal Singh scooterist. SI Prem Chand made his endorsement on the

statement of complainant Mohan Lal and sent it to the police station for the registration of a case against the petitioner. SI Gulshan Kumar recorded the FIR at Police Station, Central, Chandigarh. The Investigating Officer SI Prem Chand prepared rough site plan of the place of accident at the identification of Mohan Lal complainant. He reached at the hospital and moved an application for seeking fitness of injured Deepak Anand to make a statement but Deepak Anand was brought dead there. He held inquest report on the dead body of Deepak Anand and got his dead body post-mortemed. During the course of investigation, the Investigating Officer also took into police possession the scooter and Moped involved in this accident vide separate recovery memos. He got the vehicles involved in this accident mechanically tested from the mechanic during the course of investigation. He recorded the statements of the witnesses, during the course of investigation. He arrested the petitioner and on completion of necessary investigation, challan was presented against the petitioner in the Court of learned Illaqa Magistrate, Chandigarh.

The challan having been presented by the investigating agency, copy thereof along with documents attached therewith, was supplied to the accused, as required under Section 207 of the Code of Criminal Procedure ('Cr.P.C.' for short). Having found a prima facie case, charges were framed against the accused-petitioner for the offences punishable under Sections 279, 304-A IPC. Accused pleaded not guilty and claimed trial.

With a view to substantiate the charges against the petitioner, prosecution examined as many as eight prosecution witnesses, besides producing the relevant documentary evidence on record. On closing the prosecution evidence, statement of accused-petitioner was recorded under

Section 313 of CR.P.C. All the incriminating material brought on record, was put to the accused. He denied the allegations, alleged false implication and claimed complete innocence. However, he did not produce any evidence in his defence.

After hearing learned counsel for both the parties and going through the evidence brought on record, learned Judicial Magistrate 1st Class, Chandigarh came to the conclusion that the prosecution has brought home the guilt against the accused. Accordingly, the accused was held guilty and was convicted for the offences punishable under Sections 279/304-A IPC vide impugned judgment of conviction dated 10.10.2000. Vide impugned order of sentence of even date i.e. 10.10.2000, the learned trial Court awarded the sentence to the convict-petitioner to undergo R.I. for one year with a fine of Rs.300/- for the commission of offence under Section 304-A IPC and in default of payment of fine, he was ordered to further undergo R.I. for 01 month. Convict was also sentenced to undergone R.I. for 04 months for the commission of offence under Section 279 IPC. Both the sentences were ordered to run concurrently.

Feeling aggrieved, convict filed his appeal, which also came to be dismissed by the learned Additional Sessions Judge, Chandigarh vide impugned judgment dated 01.02.2002. Hence this criminal revision petition, at the hands of convict. This criminal revision petition was admitted for regular hearing vide order dated 11.02.2002 and notice regarding suspension of sentence was issued. Thereafter, sentence of the petitioner was suspended by this Court vide order dated 26.04.2002. That is how, this Court is seized of the matter.

Learned counsel for the petitioner, at the very outset, submits that he does not intend to press this petition on merits. He further submits that the instant criminal revision petition may be considered only for the purpose of reduction of sentence. Referring to the custody certificate filed by way of affidavit dated 27.07.2015, in the Court today, learned counsel for the petitioner submits that out of total sentence awarded to the petitioner for a period of one year R.I., he has already undergone for a period of three months and one day, before his sentence was suspended by this Court vide abovesaid order dated 26.04.2002.

While highlighting the mitigating circumstances in favour of the petitioner, he submits that instant criminal trial was initiated on the basis of FIR No.151 dated 16.05.1994 i.e. more than 21 years back. Petitioner has been facing the agony of criminal trial for more than two decades. Learned counsel for the petitioner would next contend that petitioner is the first offender and even as per the latest custody certificate dated 27.07.2015, he has not been found involved in any other case. At the time of accident, petitioner was a young man of 31 years of age and he is now more than 52 years old. Learned counsel for the petitioner concluded by submitting that present one is a fit case for reduction of the sentence of the petitioner to the period already undergone by him. Learned counsel for the petitioner also submits that petitioner had already paid the fine.

On the other hand, learned counsel for the State (U.T., Chandigarh) submits that petitioner has undergone a very less custody period of just three months out of total sentence awarded to him for one year R.I. He further submits that reduction of the sentence to the period already undergone

would be contrary to the law laid down by the Hon'ble Supreme Court, in its recent judgment in the case of **State of Punjab Vs. Saurabh Bakshi, Criminal Appeal No.520 of 2015 (arising out of SLP (Crl.) No.5825 of 2014), decided on 30.03.2015**. He prays for dismissal of the present criminal revision petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that it is just and expedient to reduce the sentence of the petitioner to the period of six months R.I., while upholding his conviction, for the following more than one reasons.

It is a matter of record that petitioner is facing the agony of criminal trial for the last more than two decades. Learned counsel for the petitioner has been found justified in contending that it is one of the relevant factor and important mitigating circumstance in favour of the petitioner. Further, petitioner has not been found involved in any other case and he is the first offender. Having said that, this Court feels no hesitation to conclude that ends of justice would be adequately met if the sentence of the petitioner is ordered to be reduced from one year R.I. to six months R.I., while upholding his conviction.

Further, reduction of the sentence of the petitioner from one year R.I. to six months R.I. will also be in consonance with the recent judgment of the Hon'ble Supreme Court in **Saurabh Bakshi's** case (supra).

No other argument was raised.

Considering the peculiar facts and circumstances of the case

noted above, coupled with the reasons aforementioned, this Court is of the considered view that petitioner has been found entitled for reduction of sentence from one year R.I. to six months R.I. Accordingly, while upholding the conviction of the petitioner, his sentence is ordered to be reduced from one year R.I. to six months R.I. Let the petitioner be taken into custody to serve his remaining sentence.

Resultantly, with the abovesaid observations made and directions issued, instant criminal revision petition stands disposed of, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

12.08.2015
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