

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

CRR-3-2006 (O&M)

Date of Decision: December 9, 2015

Gurmit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

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

Present: Mr.P.S.Ahluwalia, Advocate
for the petitioner.

Mr.P.S.Paul, DAG, Punjab.

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NARESH KUMAR SANGHI, J.(ORAL)

Challenge in this criminal revision petition is to the judgment, dated 21.12.2005, passed by learned Additional Sessions Judge, Patiala, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offences punishable under Sections 279, 304-A and 337, IPC, recorded by learned Judicial Magistrate First Class, Patiala, was dismissed, with modification in the order of sentence.

At the very outset learned counsel contends that in view of the concurrent findings of both the Courts below holding the petitioner guilty for the offences punishable under Sections 279, 304-A and 337, IPC, he would not contest the present petition on merits with regard to the verdict of his guilt for the said offences. He further submits that in view of the fact that the alleged accident had taken place on 10.10.1999 and since then the petitioner is facing the agony of trial, appeal and the present criminal revision petition; the petitioner, who is a driver on a private bus, has lost his service and except him there is none in the family to look after the family members; the petitioner was first offender since he was neither involved nor required in any other case; during the pendency of the trial, appeal and the present criminal revision petition, petitioner was granted the concession of bail, but he did not misuse the said concession; parents of Lucky (since deceased) were awarded adequate compensation by learned Motor Accidents Claims Tribunal, Patiala, and that the petitioner was allowed bail after suspension of his sentence by this Court on 06.01.2006 and it would not be appropriate to send him to jail once again after a gap of nine years when he has settled down in the society. In support of his contention, the learned counsel has placed reliance on the latest

two judgments of Hon'ble the Supreme Court in the matters of **State of Punjab vs Saurabh Bakshi** 2015 (2) R.C.R. (Criminal) 495 and **Guru Basavaraj @ Benne Settappa vs State of Karnataka**, 2012(4) R.C.R. (Criminal) 263 to support the view that in both the said cases, sentence of rigorous imprisonment for six months was approved for the offence punishable under Section 304-A,IPC. He further submits that though parents of the deceased have adequately been compensated but still keeping in view the totality of the circumstances of the case, this Court may pass appropriate order under Section 357, Cr.P.C., for awarding more compensation to the aggrieved family.

Learned counsel for the State submits that learned counsel for the petitioner has rightly opted not to challenge the conviction of the petitioner in view of the concurrent findings of both the Courts below. He further submits that the learned Courts below have passed the adequate sentence, therefore, there is no scope for further reduction of the sentence.

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

Though the leaned counsel for the petitioner has opted not to challenge the conviction of the petitioner, yet to satisfy the

conscience of this Court the material available on record and as gathered from the records received from Lower Courts, this Court finds that PW4 Ashok Kumar and PW5 Ashwani Singla, (eye-witnesses/injured) in the same incident have fully supported the prosecution case. This Court further finds that the depositions of the said witnesses have been fully corroborated by PW8 Dr. Anju Gupta, who medico-legally examined the injured persons, PW6 Dr. I.D. Goel, who conducted the autopsy on the mortal remains of Lucky (since deceased), PW2 ASI Gurdial Singh, the Investigating Officer and PW1 HC Piara Singh, Motor Mechanic. In addition to the oral evidence, the documentary evidence in the shape of the site plan, medico legal reports of injured Ashok Kumar and Ashwani Singla as well as the post-mortem report of Lucky and the mechanical report would clearly spell out that the prosecution was able to prove the guilt of the accused for the offences punishable under Sections 279, 304-A and 337, IPC, and, as such, the learned counsel for the petitioner has correctly opted not to challenge the conviction of the petitioner.

There appears to be substance in the above submissions of the learned counsel for the petitioner when he submitted that the petitioner had already faced the agony of trial,

appeal and the present criminal revision petition for approximately 16 years; he is the first offender; during pendency of the case he was released on bail but he did not misuse the said concession and that the offending bus which was being driven by the petitioner had not directly hit Lucky (since deceased); the injured persons as well as the deceased were riding on a two wheeler and the ratio of the judgments delivered by Hon'ble the Supreme Court in the matters of **State of Punjab vs Saurabh Bakshi** and **Guru Basavaraj @ Benne Settappa** (supra), the substantive sentence for the offence punishable under Section 304-A, IPC, is reduced to rigorous imprisonment for six months. The sentences awarded for the offences punishable under Sections 279 and 337, IPC, are maintained. All the sentences shall run concurrently. The petitioner is directed to pay ₹25,000/- (Rupees twenty-five thousand only) as compensation to mother of Lucky (since deceased) within two months of passing of this order. The petitioner shall deposit the amount of compensation within the stipulated period with learned trial Court/ Duty Magistrate and on doing so, the learned trial Court shall issue notice to mother of Lucky (since deceased) for withdrawing the said amount in accordance with the settled norms.

With the above modification in the order of sentence,

stated hereinabove, the present criminal revision petition is partly allowed.

In case the petitioner fails to deposit the compensation of ₹25,000/- (Rupees twenty-five thousand only), as stated above, then the order of sentence passed by the Court below shall enure.

December 9, 2015
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(NARESH KUMAR SANGHI)
JUDGE