

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

Criminal Revision No.406 of 2006.
Decided on:-December 09, 2015.

Karamjit Singh.

.....Petitioner.

Versus

State (Union Territory of Chandigarh) and others

.....Respondents.

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. A.D.S. Sukhija, Advocate
for the petitioner.

Dr. Sukant Gupta, Addl. Public Prosecutor
for respondent No.1-U.T., Chandigarh.

Mr. Neeraj Madan, Advocate
for respondents No.2 to 7.

HARI PAL VERMA, J.

Petitioner Karamjit Singh son of Shri Joginder Singh, resident of House No.17, village Sarangpur, U.T., Chandigarh has filed the present revision petition challenging judgment dated 1.2.2006 passed by learned Additional Sessions Judge, Chandigarh, whereby his appeal against the

judgment of conviction and order of sentence dated 8.2.2005 passed by learned Judicial Magistrate 1st Class, Chandigarh, was dismissed.

Learned Magistrate vide judgment dated 8.2.2005 had convicted the petitioner for offence punishable under Sections 279 and 304-A IPC and vide separate order of that date sentence him as under:

<u>Under Section</u>	<u>Sentence</u>
279 IPC	Rigorous imprisonment for a period of six months.
304-A IPC	Rigorous imprisonment for a period of two years and to pay fine of Rs.500/-. In default of fine, to further undergo rigorous imprisonment for three months.

However, both the sentences were ordered to run concurrently.

During the pendency of the present petition, the petitioner has moved an application bearing CRM No.33070 of 2015 for impleading the legal heirs of deceased Roop Singh. Further, a joint affidavit of Sita Devi wife of late Roop Singh, Mahinder Singh, Harvinder Singh, Balwinder Singh and Ravinder Singh, all four sons of late Roop Singh and Santosh Kumari wife of Teja Singh and daughter of late Roop Singh has also been filed. As per the said affidavit, the petitioner has two minor daughters, wife and old mother, who is suffering from various ailments. All the legal heirs of late Roop Singh are living jointly except Santosh Kumari, who is residing in her matrimonial home. The legal heirs of deceased Roop Singh have decided

to forgive the petitioner for causing the accident which took place on 28.9.2001.

It has further been averred in the affidavit that the petitioner has paid a sum of ₹2.5 lacs as compensation to the deponents i.e. the legal heirs of deceased Roop Singh and there is no other claim against the petitioner. The deponents have further averred that they have no objection if the case against the petitioner is finished or his sentence is waived off. In this manner, the legal heirs of deceased Roop Singh have compromised the matter with the petitioner.

Learned counsel for the petitioner has argued that the petitioner is suffering the agony of trial since 28.9.2001 i.e. the date when the FIR was lodged. Instead of arguing the matter on merits, he has confined his arguments to the extent that the sentence awarded to the petitioner be reduced to the period already undergone by him particularly when the petitioner has duly compensated the legal heirs of the deceased. In support of his contention, he has relied upon **2013(1) RCR (Criminal) 826 (Supreme Court)** titled as **Ismail Versus Police Sub Inspector, Hospet**. Reliance has also been placed upon **Puttaswamy Versus State of Karnataka and another 2009(1) RCR (Criminal) 501 (Supreme Court)**.

On the other hand, learned Additional Public Prosecutor for U.T. has argued that the offence under Section 304-A IPC is not a private offence and is an offence against the society and, therefore, the sentence

awarded by the learned trial Court does not want any interference. He has further submitted that as against the awarded sentence of two years, the petitioner has undergone only about 25 days.

I have heard learned counsel for the parties.

The petitioner is stated to be first time offender and admittedly facing the agony of trial since 28.9.2001. He has to take care of his two minor daughters and old mother. This Court cannot ignore the fact that the parties have compromised the matter and legal heirs of deceased Roop Singh have duly been compensated in addition to the claim, if any, received by them under the Motor Vehicles Act, 1988. Admittedly, ₹2.5 lacs have been given to the legal heirs of the deceased for which they have furnished an affidavit.

In *Ismail's case (supra)*, the accused was convicted under Section 304-A IPC and was sentenced to undergo rigorous imprisonment for one year, however, the Apex Court reduced his sentence to the period of 15 days which he had already undergone. The relevant para No.3 of the said judgment reads as under:

“3. We have perused the relevant record and heard arguments of the learned Counsel for appellant. Apart from the material considered by the Courts below, learned Counsel for the appellant has brought to our notice that the appellant is aged about more than 74 years as on date and by placing a medical certificate dated 26.2.2010 it is stated that he is not in

a position to do any activity. We have also perused the medical certificate which is available in the form of Annexure P-6. In addition to the same, it is also brought to our notice that he had suffered 15 days of sentence. Taking all these aspects into consideration particularly his health condition and age, we feel that the ends of justice would be met by reducing the sentence to the period which he had already undergone. To this extent, we modify the impugned order of the High Court.”

Similarly, in ***Puttaswamy's case (supra)***, the Apex Court has observed in para Nos.9 and 10 as under:

“9. What emerges from all these decisions is that even if an offence is not compoundable within the scope of Section 320 of Code of Criminal Procedure the Court may, in view of the compromise arrived at between the parties, reduce the sentence imposed while maintaining the conviction. In the present case, the appellant has been convicted under Sections 279 and 304-A of the Indian Penal Code and has been sentenced to undergo simple imprisonment for a period of 6 months and to pay a fine of Rs.2,000/-. The sentence as far as conviction under Section 279 I.P.C. is concerned has been set aside by the High Court. What remains after the judgment of the High Court is the conviction under Sections 279 and 304-A I.P.C. wherein the appellant was sentenced to undergo six months simple imprisonment along with a fine of Rs.2,000/-. In our view, this is one of those cases where instead of confining the appellant in prison, the interest of justice will be better served if he is made to compensate the family of the deceased on account of the loss

suffered by them.

10. Accordingly, while maintaining the appellant's conviction under Sections 279 and 304-A I.P.C., notwithstanding the agreement arrived at between the parties, we increase the amount of fine from Rs.2,000/- to Rs.20,000/- to be paid by the appellant to the parents of the deceased and reduce the sentence to the period already undergone, subject to payment of the fine. The aforesaid amount is to be deposited by the appellant in the Trial Court within three weeks from date, and on such deposit, the said amount shall be made over to the parents of the deceased and the appellant shall be released forthwith. In default of such deposit, this order shall remain in abeyance for a period of four weeks and if still no deposit is made within the said period the appeal will stand dismissed."

Further in the case of ***Sube Singh and another Versus State of Haryana and another 2013(4) RCR (Criminal) 102***, this Court, while invoking the powers as envisaged under Section 482 Cr.PC, has held that the High Court is vested unparallel power to quash criminal proceedings at any stage to secure ends of justice and allowed the compounding of offence which was otherwise non-compoundable.

Considering the fact that learned counsel for the petitioner has restricted his arguments qua the quantum of sentence and coupled with the fact that the petitioner is suffering the agony of trial since 28.9.2001 when the FIR in question was registered and further as against the total sentence of two years, he has suffered incarceration for a period of about 25 days, as

also in the light of the aforementioned judgments, 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, the amount of fine is increased from Rs.500/- to Rs.5,000/-.

Perusal of the order of sentence dated 8.2.2005 reveals that the fine of Rs.500/- has already been paid by the petitioner-accused. As such, the petitioner is directed to deposit the remaining amount of Rs.4,500/- with the trial Court within a period of one month 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 stands dismissed.

December 09, 2015
'Yag Dutt'

(HARI PAL VERMA)
JUDGE