

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

CRM-M No. 8174 of 2015 (O&M)

Date of Decision: 13.10.2015

Harpreet Singh

..... Petitioners

Vs.

State of Punjab and Others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Surjit Singh Salar, Advocate
for the petitioner.

Mr. Mikhail Kad, AAG, Punjab
for respondent No. 1/State.

Mr. S.S. Tiwana, Advocate for
Mr. Amarvivek, Advocate
for respondent Nos. 2 to 5.

JASWANT SINGH, J. (ORAL)

The petitioner/convict is seeking the quashing of FIR No. 16, dated 15.02.2010, for the offences punishable under Sections 304-A, 279 and 427 of the Indian Penal Code, registered at Police Station Amargarh, District Sangrur (**Annexure P-1**), as also the judgment and order dated 21.12.2012, passed by Judicial Magistrate First Class, Malerkotla (**Annexure P-2**), whereby the petitioner was convicted and sentenced for one year's rigorous imprisonment for offence under Sections 304-A, IPC and six months' rigorous imprisonment for offence under Section 279, IPC.

Prayer for abovesaid quashing is based on the compromise dated 05.03.2015 (**Annexure P-3**), effected with the legal heirs of the deceased-Harmesh Lal, who had died in the accident caused by rash and negligent driving of the petitioner, who is admittedly a young student.

Concededly, an appeal already stands filed by the petitioner against the judgment and order **(P-2)** and the same is pending before the learned lower Appellate Court.

Upon notice, the legal heirs of deceased-Harmesh Lal, put in appearance through their counsel.

At the time of hearing today, learned counsel appearing for the complainants, concedes that the aforesaid compromise has been entered and the legal heirs of the deceased have no objection, if the prayer of the accused/petitioner is accepted. The said statement has been made on the basis of joint affidavit of the legal heirs, which is in possession of the counsel. The complainant is the brother of the deceased.

Learned State Counsel submits that the Hon'ble Supreme Court has reiterated the principle of law that after conviction, except in family matters, the quashing of the FIR and setting aside of the conviction is not permitted, however, the quantum of sentence can be reduced being a mitigating factor. In support, he has cited a recent judgment of Hon'ble Supreme Court in **Narinder Singh and Others Versus State of Punjab and Another, 2014 (2) RCR (Criminal), 482.**

At this stage, learned counsel for the petitioner, in the light of settled law, gives up his claim for quashing the FIR, as also the order for setting aside the judgment of conviction, however, prays only for reduction of the sentence to the period of imprisonment already undergone since the legal heirs of the deceased have been adequately compensated and have no objection.

The restricted prayer on behalf of the petitioner is reasonable and liable to be accepted. However, since admittedly appeal against conviction and sentence order is pending before the learned lower Appellate Court, it would not be appropriate for this Court to pass any order of reduction of the quantum of sentence. Therefore, the present petition is liable to be disposed of with permission to the petitioner/convict to approach the learned lower Appellate Court to enable him to file an appropriate application in the pending appeal seeking necessary relief in accordance with the aforesaid cited law.

Disposed of in the above terms.

October 13, 2015

'dk kamra'

(JASWANT SINGH)
JUDGE