

CRR-1006-2015

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

**CRR-1006-2015 (O & M)
Date of Decision: 28.07.2015**

Madan Lal

... Petitioner (s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

Present: Ms. Partibha Yadav, Advocate,
for the petitioner.

Mr. Anil Mehta, DAG, Punjab.

Mr. Varun Gupta, Advocate,
for respondent Nos.2 and 3.

Paramjeet Singh, J. (Oral)

Present criminal revision has been preferred by the petitioner against judgment dated 04.02.2015 passed by the Additional Sessions Judge, Rewari whereby appeal preferred by the petitioner has been partly allowed and order of sentence dated 14.12.2010 passed by the trial Court has been modified to the extent that the petitioner will undergo simple imprisonment for a period of one month under Section 279 IPC and further undergo simple imprisonment for a period of one year under Section 304-A IPC.

I need not dilate upon the facts of this case in detail as the

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same have already been recapitulated in the judgments of courts below and in view of the ultimate prayer of the petitioner seeking reduction in sentence.

I have heard the learned counsel for the parties and perused the record.

Learned counsel appearing for the petitioner states that he is not pressing this revision on merit and is not challenging the conviction on merit. He is only aggrieved against the sentence part. However, he prays that sentence of the petitioner be suitably reduced as this criminal trial is hanging on his head like damocle's sword for approximately seven years and it should be a sufficient mitigating circumstance to treat him leniently. Learned counsel for the petitioner has further submitted that the FIR pertains to the year 2008 and since then a period of approximately seven years has elapsed. The petitioner has suffered the ordeal for long period. Learned counsel for the petitioner further submits that the petitioner has already undergone the imprisonment for more than five months. Learned counsel further submits that matter has been compromised and legal heirs of deceased have been compensated.

Learned counsel for the State vehemently opposes the reduction in sentence.

Learned counsel for respondent Nos.2 and 3 states that compensation has been paid to legal heirs of deceased and he has no objection, if the sentence of the petitioner is reduced.

I have considered the contentions raised by learned counsel for the parties.

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Ancient penological approach was custodial measure to curb crime. But in modern days, penological approach should be balanced keeping in view the needs of the community and interests of the accused: such as compensation to the victims, release on admonition, probation etc. These are being adopted to reform the criminal convicts. The object of criminal justice system is to reform the offenders and to make them see and follow the right path. Otherwise also jails are often overcrowded.

The Hon'ble Supreme Court in ***State of Punjab vs. Saurabh Bakshi*** 2015(2) RCR(Criminal) 495 held as under:

“The protagonists, as we perceive, have lost all respect for law. A man with the means has, in possibility, graduated himself to harbour the idea that he can escape from the substantive sentence by payment of compensation. Neither the law nor the court that implements the law should ever get oblivious of the fact that in such accidents precious lives are lost or the victims who survive are crippled for life which, in a way, worse than death. Such developing of notions is a dangerous phenomenon in an orderly society. Young age cannot be a plea to be accepted in all circumstances. Life to the poor or the impecunious is as worth living for as it is to the rich and the luxuriously temperamental. Needless to say, the principle of sentencing recognizes the corrective measures but there are occasions when the deterrence is an imperative necessity depending upon the facts of the case. In our opinion, it is a fit case where we are constrained to say that the High Court has been swayed away by the

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passion of mercy in applying the principle that payment of compensation is a factor for reduction of sentence to 24 days. It is absolutely in the realm of misplaced sympathy. It is, in a way mockery of justice. Because justice is “the crowning glory”, “the sovereign mistress” and “queen of virtue” as Cicero had said. Such a crime blights not only the lives of the victims but of many others around them. It ultimately shatters the faith of the public in judicial system. In our view, the sentence of one year as imposed by the trial Magistrate which has been affirmed by the appellate court should be reduced to six months.”

In view of the arguments advanced by learned counsel for the petitioner, which have been noted above, this Court is of the view that no useful purpose will be served by keeping the petitioner behind bars as the petitioner has already faced ordeal for approximately eight years, he has undergone the imprisonment for more than five months and he has compensated the legal heirs of deceased. It is a fit case wherein sentence awarded to the petitioner can be reduced from one year's simple imprisonment to six month's simple imprisonment. Ordered accordingly. The impugned judgment of sentence and order of conviction stand affirmed with aforesaid modification. The petitioner, who is stated to be in custody, be released forthwith on completion of sentence, if not required in any other case.

With the above observations/modification of impugned order, present revision petition is disposed of.

28.07.2015
parveen kumar

(Paramjeet Singh)
Judge