

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-1063-2014 (O&M)

Date of decision: 24.04.2015

Joginder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

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. Satwant Mehta, Advocate for the petitioner.

Mr. Gazi. Mohd., Deputy Advocate General, Punjab.

R.P. NAGRATH, J.

Challenge in the instant revision is to the concurrent findings recorded by the Courts below convicting the petitioner under Sections 304-A and 279 of the Indian Penal Code (IPC). The evidence with regard to injuries on the person of Lakhwinder Kaur an injured in the incident having not been proved nor Lakhwinder Kaur examined in the witness-box, the trial Court, thus, acquitted the petitioner of the charge under Section 338 IPC. The petitioner was awarded the sentence under Section 304-A IPC to undergo rigorous imprisonment for a period of 2 years and to pay a fine of ₹ 2000/-, in default to further undergo imprisonment for 15 days. He was further sentenced to undergo rigorous imprisonment for a period of six months under Section 279 IPC and to pay a fine of

₹ 1000/- and in default to further undergo imprisonment for 15 days.

Both the sentences were to run concurrently. The learned Appellate Court also affirmed the aforesaid finding of conviction and sentence awarded by the learned trial Court.

2. Since the argument was confined only qua the quantum of sentence, it would be necessary to briefly describe the facts of case. The FIR was recorded on the statement of Darbara Singh an eye-witness. On 30.09.2006, Darbara Singh and his nephew Dilbag Singh were going on a motorcycle which was being driven by Dilbag Singh. The other nephew of complainant, namely; Sukhchain Singh was also going on separate motorcycle ahead of them on the public highway. Lakhwinder Kaur wife of Sukhchain Singh and his daughter-Jaspreet Kaur were the pillion riders. It was about 6.00 p.m. they reached near the Khemkaran Petrol Pump, that a mini bus No. PB-08-Temp./06/3668 belonging to Punjab Travels Company being driven in a rash and negligent manner hit the motorcycle of Sukhchan Singh. Sukhchan Singh and his daughter Jaspreet Kaur had fallen on the ground and they died at the spot whereas Lakhwinder Kaur suffered injuries. The statement about the incident was made before SI Kaur Singh on 30.09.2006 itself.

3. The prosecution story was supported by Darbara Singh, PW-5 the complainant and his nephew Dilbag Singh as PW-4. The post mortem reports were proved by PW-1 Dr. Gupreet Singh Rai. PW-5 Darbara Singh, stated in the witness-box that he already knew the petitioner. Dilbag Singh PW-4 also identified the petitioner being the driver of offending bus.

4. When the matter was listed on 02.04.2014, learned counsel for the petitioner at the outset, did not challenge the concurrent findings of conviction recorded by both the Courts below on merits and notice of motion was issued only qua the quantum of sentence.

5. I have heard learned counsel for the petitioner, learned State counsel and carefully perused the records.

6. As per custody certificate dated 26.02.2015 handed over by learned State counsel, the petitioner by now has undergone 01 year, 2 months and 19 days of imprisonment and the total imprisonment undergone by the petitioner including remissions comes to about 01 year 05 months and 07 days. There is no averment in the custody certificate that petitioner is involved in any other FIR previously.

7. In *Dalbir Singh Vs. State of Haryana, 2000 (5) SCC 82*, the Hon'ble Supreme Court observed that while considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of the vehicle he cannot escape from a jail sentence.

8. On 26.02.2015, learned petitioner's counsel sought time to have instructions with regard to the amount of compensation awarded to

the legal heirs of deceased persons. Learned petitioner's counsel, however, submitted that petitioner is not able to pay any further amount of compensation though it was contended that family of the deceased has received the amount of compensation awarded by the Motor Accident Claims Tribunal.

9. Further Hon'ble Supreme Court in **State of Punjab Vs. Saurabh Bakshi, Criminal Appeal No. 520 of 2015**, decided on 30.03.2015, observed that it cannot be said as a proposition of law that whenever an accused offers acceptable compensation for rehabilitation of a victim, regardless of the gravity of the crime under Section 304-A, there can be reduction of sentence.

10. Keeping in view the aforesaid facts and circumstances, the instant revision is dismissed on merits but the same is partly allowed by reducing the period of sentence from 2 years of rigorous imprisonment to rigorous imprisonment of 1 year and 6 months, maintaining rest of the sentences including the sentence of payment of fine and the default clause.

April 24, 2015

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**(R.P. NAGRATH)
JUDGE**