

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

**Criminal Revision No.1226 of 2014
Date of Decision:-03.3.2015**

Harpreet Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. A.G.S. Dhillon, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG Punjab.

Mr. Damanjit Singh Sandhu, Advocate
for respondent No.2.

HARI PAL VERMA J.

The petitioner has filed the present revision petition under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (hereinafter to be referred as 'Cr.P.C.') against the judgment dated 5.3.2014 passed by learned Additional Sessions Judge, Patiala, whereby the appeal filed against the judgment dated 12.10.2010 passed by Shri Kuldeep Singh, Sub Divisional Judicial Magistrate, Samana convicting the present revision petitioner for an offence punishable under Sections 279 and 304-A IPC was dismissed. The learned Magistrate has sentenced the revision-petitioner to undergo rigorous imprisonment for two years and fine of Rs.500/- and in default of fine to further undergo rigorous

imprisonment for one month for offence punishable under Section 304-A IPC and rigorous imprisonment for six months with fine of Rs.300/- and in default of payment of fine to further undergo rigorous imprisonment of ten days for offence punishable under Section 279 IPC.

Briefly stated the petitioner, who is resident of Village Badshahpur, Tehsil Samana, District Patiala, was booked in FIR No.62 dated 26.2.2006, under Sections 279 and 304-A IPC, registered at Police Station Samana. In the FIR, as lodged by the complainant Karnail Singh, it has been averred that on 26.2.2006 Baljit Singh son of Jasvir Singh and Joginder Singh son of Balvir singh cousin of the complainant left Dera Patwarian Azimgarh on motor-cycle bearing Registration No. PB-54-8615 for attending the festival at Panj Mukhi Mandir, Samana. The complainant was following them along with Sucha Singh son of Raghbir Singh on a scooter. At about 2 PM when they reached near the workshop of Manku, one red coloured vehicle came from the side of Mandi Bhagwanigarh and hit with the motor-cycle of Joginder Singh. Consequently both Joginder Singh and Baljit Singh fell on the road after hitting with the bonnet of the offending vehicle. The complainant along with Sucha Singh stopped his scooter and checked up Joginder Singh. But due to the head injuries blood was oozing and he also suffered other injuries on his body. At that time he was unconscious. The complainant along with Sucha Singh also checked up aforesaid Baljit Singh, who had also suffered head injuries and blood was oozing. He was also unconscious. Resultantly, both died at the spot. The complainant noted down the registration number of the offending vehicle as CH28T-1710 Tavera, red colour. The driver of the

offending vehicle came to the complainant and told his name as Harpreet Singh son of Harbans Singh, resident of Village Badshahpur i.e. the petitioner in the revision petition.

A criminal case was registered and after completion of the investigation, challan was presented against the petitioner. The trial court vide judgment dated 12.10.2010 accepted the prosecution version being proved beyond the shadow of reasonable doubt and convicted the petitioner under Sections 279 and 304-A IPC. On the point of quantum of sentence, the learned trial Court sentenced the petitioner as under :-

<i>Under Section</i>	<i>Sentence awarded to the convict</i>	<i>Fine imposed upon the convict</i>	<i>R.I. in default of payment of fine</i>
304-A IPC	R.I. for two years	Rs.500/-	1 month
279 IPC	R.I. for six months	Rs.300/-	10 days

The petitioner filed the appeal challenging the judgment of conviction and the order of sentence dated 12.10.2010 and 15.10.2010 respectively. However, the said appeal was also dismissed by learned Appellate Court, which observed that the sentence awarded by the trial Court is commensurate with the gravity of offence committed by the accused. The petitioner, who was on bail during the trial and during the pendency of the appeal was ordered to be taken into custody and sent to the jail to undergo the sentence awarded to him.

The petitioner has now filed the instant revision petition questioning his conviction.

I have heard learned counsel for the parties and gone through the records.

It is settled principle of law that in its revisional jurisdiction, this Court is not to reappreciate and reappraise the evidence until and

unless, it comes to the conclusion that the findings recorded by the trial Court are perverse, illegal and erroneous on account of misreading of evidence. The Courts below while relying upon the cogent and convincing evidence of prosecution witnesses, were right in coming to the conclusion that the prosecution had proved its case against the accused beyond a reasonable shadow of doubt.

However, so far as the order of sentence is concerned, it has been argued by learned counsel for the revision-petitioner that the petitioner has already undergone more than one year of sentence. It is further contended that he has been facing agony of the trial since the year 2006 i.e. for the last 09 years and hence it is contended that he should be given the benefit of probation under the Probation of Offenders Act, 1958 and the sentence be reduced to the sentence already undergone by him. The custody certificate indicating the custody undergone by the petitioner Harpreet Singh has been filed in the court on 16.12.2014. The custody certificate shows that as on 7.11.2014 the petitioner has undergone 08 months and 02 days and has earned remission of one month and 28 days, which reflects that the total custody including remission is ten months. As on date the petitioner has undergone about more than one year of sentence.

The petitioner has impleaded the complainant Karnail Singh son of Jeet Singh as respondent No.2. Shri Damanjit Singh Sandhu, Advocate has put in appearance on behalf of complainant-respondent No.2 and fairly conceded that the petitioner has compensated the family of the complainant and the complainant is happy with the behaviour of the

petitioner.

After hearing learned counsel for the parties and while taking into consideration the fact that the present petitioner is not a previous convict and has been facing the agony of trial for the last about more than nine years as well as considering the contention of the complainant that the petitioner has compensated the family of the complainant and the complainant is happy with the behaviour of the petitioner, I am of the view that the revision petitioner deserves some leniency in the quantum of sentence.

In the cases of Ram Pal v. State of Punjab, 2006(1) RCR (Crl.) 784, Santokh Singh v. State of Punjab, 2006(1) RCR (Crl.) 834, Chuni Lal v. State of Haryana 2006(1) RCR (Crl.) 844 and Roshan Lal v. State of Punjab, 2006(1) RCR (Crl.) 795 it has been observed as under :-

- '7. *In re: Chuni Lal (supra), this Court was pleased to observe that the accused may be released on probation in a case under Sections 279, 304-A, 337 Indian Penal Code on the following grounds :*
- (i) Having remained on bail for a sufficiently long period,*
 - (ii) Accused not a previous convict and did not indulge in any criminal activity during the post conviction period,*
 - (iii) Faced agony of trial for a considerable long period, and*
 - (iv) being the sole bread earner.*
8. *In re: Roshan Lal (supra), which was also the case under Section 304-A of Indian Penal Code, the occurrence was 17 years old and the*

accused was released on probation by this Court. Further in re: Santokh Singh (supra), which was also a case under Section 304-A of Indian Penal Code, the incident was years old and the accused remained in custody for 15 days. He was also ordered to be released on probation by this Court. In re: Ram Pal (supra), which was also a case under Section 304-A of Indian Penal Code, this incident was years old and the accused had remained on bail for more than 13 years and was a first convict. He was also ordered to be released on probation by this Court.'

Similarly in the case of Paramjit Singh v. State of Haryana 2011(2) RCR (Criminal) 855, this Court has observed as under :-

- '31. *The appellant remained in custody for 11 days and suffered agony of protracted trial for more than 16 years. He is not a previous convict and has not misused the concession of bail. He is a Haryana Government servant. In his statement recorded on 13.9.2000, the appellant has stated that he has five children, wife and old aged parents to support.*
32. *Keeping in view peculiar facts and circumstances of the case and reformatory trend of modern penology, the present case eminently is a fit case in which the appellant deserves to be released on probation.'*

Hence, I am of the view that the ends of justice would be met if revision-petitioner is released on probation.

Accordingly, agreeing to the prayer of learned counsel for the

revision-petitioner that the sentence, which was awarded to the revision-petitioner should be reduced in as much as the maximum sentence was imposed upon the revision-petitioner. The revision-petitioner shall undergo imprisonment for a period of one year, which he has already undergone alongwith fine.

Moreover, nothing has come on record to show that during the pendency of the trial or the appeal particularly when the petitioner remained on bail, the revision-petitioner has ever misused the concession of bail. He has completed the sentence of about more than one year.

Under the above mentioned circumstances and by placing abundant reliance upon the observations made in the authorities sought to be relied upon by learned counsel for the revision-petitioner, I deem it appropriate where benefit of probation should be given. It is directed that the petitioner shall be released on probation for a period of two years under Section 4(1) of the Probation of Offenders Act on his furnishing personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the trial Court. The bonds shall be furnished within three months from the date of receipt of certified copy of judgment. During his probation period, he will keep the peace and be of good behaviour. However, he will come and receive sentence as and when required by the Court.

With the above observation, the revision-petition is disposed of.

March 03, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE