

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1347 of 2014 (o&m)
Date of Decision: 19.05.2015

Asgar Khan
...Petitioner(s)

Versus

State of Punjab & another
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? No

Present: Mr. K.S. Chahal, Advocate
for the petitioner.

Mr. Deep Singh, Addl. A.G., Punjab.

Mr. Sanjeev Goyal, Advocate
for respondent no.2.

ANITA CHAUDHRY, J.

1. Through this petition, the revisionist Asgar Khan has challenged his conviction under Section 279 and 304-A IPC. The conviction was recorded in FIR No.63 lodged on 24.07.2005 at Police Station Amargarh, District Sangrur. The Sub Divisional Judicial Magistrate, Malerkotla, vide order dated 01.06.2012 convicted the petitioner and sentenced him to undergo the following punishment:-

Under Section	Rigorous imprisonment	Fine	In default of payment of fine further imprisonment
279 IPC	1 year	2,000/-	15 days
304-A IPC	2 years	3000/-	30 days

2. The judgment was affirmed by the Addl. Sessions Judge, Sangrur vide order dated 03.03.2014. The petitioner was taken in custody to undergo the remaining part of sentence. Dis-satisfied with both the verdicts, present revision has been filed.

3. On 16.09.2014, learned counsel for the petitioner had confined his prayer only to the quantum of sentence. On that day, he further stated that petitioner was ready to pay some compensation to the LRs of deceased. Interim bail was granted to the petitioner which was extended time and again till today. On 30.10.2014, an offer of payment of additional compensation of Rs.20,000/- (apart from the amount awarded under the Motor Vehicle Act) was made whereas Randhir Singh (father of the deceased) did not agree on.

4. I have heard learned counsel for the petitioner as well as learned State counsel appearing for the State of Punjab and counsel for the complainant.

5. The counsel for the petitioner contends that the petitioner is a first offender and had faced a protracted trial for the last more than 9½ years and the petitioner had remained in custody for more than 7 months. Learned counsel for the petitioner contends that the sentence of the petitioner may be reduced to the period already undergone by him. He further submits that the petitioner is first offender and during these years he has not indulged in any similar offence. Counsel contends that the petitioner is ready to pay additional amount as compensation to the legal heirs of deceased.

6. The State counsel has opposed the prayer and submits that convict-petitioner drove the canter in rash and negligent manner and had caused the accident, as a result of which Randeep Singh @ Deep died on the spot and the Courts below have already taken a lenient view.

7. As the prayer made by the petitioner is restricted only to the sentence, therefore, the findings recorded by the Courts below convicting the petitioner are affirmed.

8. The occurrence took place in the year 2005. The petitioner was convicted by the trial Court vide judgment dated 01.06.2012. His appeal was dismissed by the Sessions Court on 03.03.2014. The petitioner remained in custody for about 7 months. Striking a balance for the offence under Section 304-A IPC and considering the entire facts and the circumstances, I am of the view that ends of justice would be met in case the sentence awarded to the petitioner is reduced to the period already undergone by him. However, the sentence of fine is maintained. The petitioner shall also pay an additional sum of Rs.50,000/- to the father of the deceased (Randhir Singh son of Joginder Singh) as additional compensation. The amount, if deposited, be disbursed to Randhir Singh. In case the petitioner fails to deposit the said amount within a period of one month, this revision petition shall be deemed to be dismissed and the petitioner would surrender before the Chief Judicial Magistrate, Sangrur to undergo remaining part of his sentence as imposed by the

trial Court. However, it is made clear that both the sentences will run concurrently. On deposit of the fine amount imposed by the trial Court, the petitioner be set at liberty, if not required in any other case.

With the above modification, the instant revision petition stands disposed of. Copy of this order be sent to the Courts below.

(ANITA CHAUDHRY)
JUDGE

19.05.2015
'Sunil Sehgal'