

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

Criminal Revision No.1471 of 2015 (O&M).
Decided on:-August 14, 2015.

Rachpal Singh.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. R.K. Arya, Advocate
for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab
for respondent No.1-State.

Mr. S.S. Kainth, Advocate
for respondents No.2 to 6.

HARI PAL VERMA, J.

CRM-16133-2015

This is an application filed on behalf of the petitioner for
impleading the LRs of deceased Gurnam Singh as respondents No.2 to 6.

For the reasons stated therein, the application is allowed.

The amended Memo of Appearance is taken on record.

Main Case

The petitioner has filed the present revision petition challenging
judgment dated 4.4.2015 passed by learned Additional Sessions Judge,

Gurdaspur, whereby the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 14.10.2014 passed by the Court of Judicial Magistrate 1st Class, Gurdaspur in case FIR No.83 dated 18.5.2009 under Sections 279, 304-A and 427 IPC, registered at Police Station Dharwial, District Gurdaspur, was dismissed.

The trial Court vide judgment and order dated 14.10.2014 had convicted the petitioner under Sections 279 and 304-A IPC by acquitting him under Section 427 IPC and sentenced him as under:

U/S	Sentence	Fine	In default
279 IPC	Rigorous imprisonment for six months	Rs.500/-	Rigorous imprisonment for 15 days
304-A IPC	Rigorous imprisonment for one and a half year	Rs.1,000/-	Rigorous imprisonment for one month

It was, however, ordered by the trial Court that both the sentences shall run concurrently.

Briefly stated, the facts as projected by the prosecution are that on 18.5.2009, complainant Dhian Singh son of Jarnail Singh, resident of village Baroy got recorded his statement with SI Surinder Singh to the effect that he is an agriculturist and on that day, he along with his brother Gurnam Singh and his friend Gurvinderpal Singh were going to village Dhariwal. His brother Gurnam Singh was going ahead on his motorcycle on which his friend Gurvinderpal Singh was a pillion rider whereas he was going behind

them on his scooter. When they reached near Buraj Sahib, Dhariwal Gate, G.T. Road, the petitioner-accused came from the side of village Dhariwal by driving a car bearing registration No.HP-38B-2734 rashly and negligently and struck the car with the motorcycle of his brother, due to which his brother and his friend received grievous injuries. The driver of the car ran away from the spot after leaving the car. The complainant with the help of some passers-by got the injured admitted to Dhillon Hospital, Dhariwal, but due to serious condition of the injured, the doctor advised to take them to the hospital at Amritsar for further treatment. However, in the way, his brother Gurnam Singh succumbed to his injuries.

On the basis of said statement, aforesaid FIR was registered against the petitioner-accused and he was arrested. On his appearance before the trial Court, copies of documents were supplied to him as provided under Section 207 Cr.P.C.

Finding a prima-facie case under Sections 279, 304-A and 427 IPC against the accused, he was charge sheeted accordingly to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined six witnesses and thereafter, statement of accused under Section 313 Cr.P.C. was recorded by the trial Court. However, no defence evidence was led by the petitioner-accused and the trial Court, after hearing the case, had convicted and sentenced him in the manner described hereinabove.

Against the said verdict of the trial Court, the petitioner had

preferred an appeal, but the lower appellate Court had affirmed the findings of the trial Court and dismissed the appeal of the petitioner vide judgment dated 4.4.2015.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

Learned counsel for the petitioner without arguing the case on merits had confined his arguments qua the quantum of sentence only and, as such, this Court had issued notice of motion on the point of quantum of sentence only vide order dated April 29, 2015.

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

Learned counsel for the petitioner contends that as against the awarded sentence of one and a half year, the petitioner is in custody since 4.4.2015 and is facing the consistent agony of trial since 18.5.2009, when the case was registered against him. He further submits that during the pendency of the present petition, the parties have settled the matter amicably with the intervention of the respectable persons/relatives and the family members of the petitioner have financially helped to the family of deceased Gurnam Singh. A compromise dated 7.5.2015, as entered between the parties, is annexed as Annexure A-1. He further prays for a lenient view by considering long pendency of the proceedings as well as the fact that the matter has been compromised between the parties in the shape of compromise-deed (Annexure A-1).

Learned counsel for the petitioner has further contended that the petitioner is a poor person and has one daughter and two sons. One of the son of the petitioner is polio affected. He has compensated the legal heirs of the deceased adequately and is a first time offender. No other case is pending against him.

In support of his contention, learned counsel for the petitioner has relied upon a judgment of this Court in ***Rajeev Kanojia Versus State of UT 2014(5) Law Herald 4632*** and has prayed that that as the petitioner has already compensated the aggrieved party, it would be in the interest of justice to reduce his sentence to the period already undergone by him.

The factum of compromise has not been disputed by learned counsel for respondents No.2 to 6.

This Court in Criminal Revision No.429 of 2015 decided on August 05,2015 titled as ***Surinder Singh Versus State of Punjab*** while placing reliance on a recent judgment of Hon'ble Supreme Court in ***State of M.P. Versus Mehtaab 2015(1) RCR (Criminal) 1008*** has reduced the sentence to the period already undergone for the similar offences. The Apex Court in ***Mehtaab's case (supra)*** has modified the order passed by Hon'ble High Court of Madhya Pradesh whereby in a case where the accused was sentenced by the trial Court to undergo rigorous imprisonment for one year for the offence under Section 304-A IPC, but the High Court had reduced the sentence as already undergone and the accused was just in custody for ten days. However, the Apex Court while observing that the High Court was not

justified in reducing the sentence for ten days without awarding the compensation to the heirs of the deceased, has awarded compensation to the heirs of the deceased.

Admittedly, in the present case, the legal heirs of the deceased have come out with a compromise that they have been adequately compensated.

Considering the fact that the petitioner-accused is suffering the agony of trial since 18.5.2009 and as against the total sentence of one and a half year, he has remained in custody for about 4 months and 10 days and there is no other case pending against him coupled with the fact that the matter has been amicably settled between the parties in the shape of compromise dated 7.5.2015 (Annexure A-1), the conviction of the petitioner-accused is upheld but the sentence is reduced to the period already undergone by him.

With the aforesaid modification, the present revision petition is disposed of and the petitioner-accused is ordered to be released from custody, if not required in any other case.

August 14, 2015
'Yag Dutt'

(HARI PAL VERMA)
JUDGE