IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.1693 of 2015

Date of Decision: July 20, 2015

Sita Ram son of Shri Aadram .....Petitioner

Versus

State of Haryana .....Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Sandeep Singh Sangwan, Advocate
for the petitioner.

Mr.MS Sidhu, Additional Advocate General, Haryana.

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TEJINDER SINGH DHINDSA, J.

The present revision petition has been filed against the judgment dated 8.9.2014 rendered by the learned Sessions Judge, Narnaul dismissing the appeal filed by the petitioner-accused against the judgment of conviction dated 26.8.2013 and order of sentence dated 27.8.2013 passed by the Judicial Magistrate Ist Class, Narnaul vide which the petitioner-accused was convicted for offences under Sections 279/304-A of the Indian Penal Code and sentenced as under:

U/s 279 IPC	Sentenced to undergo simple imprisonment for a period of 6 months.
U/s 304-A IPC	Sentenced to undergo simple imprisonment for a period of 18 months.

Both sentences were directed to run concurrently.

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2. Briefly stated, case of the prosecution is that Basant Kumar got his statement recorded that on the evening of 22.5.2011 at about 7.15 p.m., he and Agnivesh were standing near the house of his uncle and at that point of time, a truck being driven at a high speed and in a rash and negligent manner came from Narnaul side and crossed over to the wrong side and hit motor-cycle bearing registration No.HR-99-4299 (Temp.) which was being driven by his brother Surender and, as a result of which, Surender was crushed to death. Basant Kumar further stated that he and Agnivesh chased the truck and after having managed to stop the truck near College, Ateli, he noted down the registration number of the truck as HR-61-6507 and on asking the name of the truck driver, the same was disclosed as Sita Ram.

3. After completion of investigation, report under Section 173 of the Code of Criminal Procedure was filed against Sita Ram, petitioner-accused to face trial. He stands convicted and sentenced by the trial Court as afore-noticed and appeal filed by him against the judgment of conviction and order of sentence has been dismissed by the learned Sessions Judge, Narnaul.

4. Learned counsel appearing for the petitioner, at the very outset, makes a submission that he is not assailing the conviction on merit but would confine the scope of the instant revision petition only regards quantum of sentence. Learned counsel would submit that the petitioner is a poor person and the sole bread-winner of the family.

5. Learned State counsel would, however, submit that the life of a young boy has been lost on account of the rash and

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negligent driving of the petitioner and as such, there would be no occasion for this Court to interfere with the quantum of sentence. Learned State counsel has referred to a recent judgment of the Hon'ble Supreme Court of India in Criminal Appeal No.520 of 2015 (arising out of SLP (Criminal) No.5825 of 2014 **"State of Punjab v. Saurabh Bakshi"**), decided on 30.3.2015 in support of his contention.

6. Learned counsel for the parties have been heard and the judgments rendered by the Courts below have been perused.

7. In **Saurabh Bakshi's** case (supra), accused had been convicted for offences under Sections 279/304-A of the Indian Penal Code for having caused death of two persons by rash and negligent driving of motor vehicle. The High Court while dealing with the revision petition filed by the accused therein had taken notice of a deposit of ₹85,000/- having been made before the trial Court towards compensation to be paid to the legal representatives of the two deceased persons and while upholding the conviction of Saurabh Bakshi had reduced the sentence to the period already undergone i.e. of 24 days. It is in the light of such facts that the Hon'ble Supreme Court had accepted the appeal preferred by State of Punjab and had observed that the High Court had been swayed by the passion of mercy in applying the principle that payment of compensation is a factum for reduction of sentence to 24 days. It was held that such course was in the realm of mis-placed sympathy. It was further held that it cannot be said as a proposition of law that whenever an accused offers acceptable compensation for rehabilitation of a

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victim, regardless of the gravity of the crime under Section 304-A of the Indian Penal Code, there can be reduction of sentence.

8. In **Shailesh Jasvantbhai v. State of Gujarat, (2006) 2 SCC 359**, it had been observed by the Apex Court as under:

> *".....The concept of proportionality allows a significant discretion to the Judge but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect – propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the value-based social mainstream may be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner. We may hasten to add that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion."*

9. Adverting back to the facts of the present case, undoubtedly, a young life has been lost. However, there are sufficient mitigating circumstances that would justify this Court's

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intervention as regards quantum of sentence.

10. The incident relates back to the year 2011. The petitioner has faced the pangs of trial followed by appeal for the period of almost four years. He is stated to be a poor person and the sole bread-winner of the family. As per custody certificate furnished by the learned State counsel, the petitioner has undergone a custody period of 10 months and 4 days as on 12.7.2015. The total sentence undergone including remissions is one year and four days. In other words, as of date, out of the substantive sentence of 18 months awarded, the petitioner has already undergone actual sentence of almost 10-1/2 months. He is not stated to be involved in any other criminal proceedings. During the course of trial, the petitioner was on bail and he, concededly, has not mis-used such concession.

11. Taking into account the afore-noticed mitigating circumstances, the present revision petition is partly allowed to the extent of upholding the conviction of the petitioner but reducing the sentence of the petitioner to the period already undergone. The petitioner would be released forthwith if not wanted in any other case.

12. Disposed of accordingly.

(TEJINDER SINGH DHINDSA)
JUDGE

July 20, 2015
SRM

Note: Whether to be referred to Reporter? (Yes/No)

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