

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

**Criminal Revision No.1953 of 2015 (O&M)
Date of Decision: 01.10.2015**

Gajjan Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

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

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

Present:- Mr. Tarunveer Vashist, Advocate
for the petitioner (s).

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA J.

Petitioner - Gajjan Singh son of Shingara Singh, resident of village Hariano, P.S. Lehra, District Sangrur has filed the present revision petition against the judgment dated 24.3.2015 passed by learned Additional Sessions Judge, Patiala, whereby his appeal against the judgment of conviction and sentence dated 3.8.2013 passed by learned Sub Divisional Judicial Magistrate, Samana was dismissed.

Briefly stated, FIR No.22 dated 18.1.2009 under Sections

279, 338, 304-A, 427 IPC Police Station Patran, District Patiala was registered against the petitioner on the statement of Harmanjit Singh, complainant. As per the case of the prosecution, the nephew of the complainant namely Gagandeep Singh along with Rajwinder Singh, Harvinder Singh and one Sita Ram were going towards Village Rongley in Zen car bearing registration no.PB-13-H-3096, whereas the complainant was travelling in separate Maruti car along with Jarnail Singh, who were following the said Zen car. At about 4 P.M., when car of Gagandeep Singh reached near Khanewal bridge, a truck bearing registration No.PB-13-D-6873 came from Patran side which was being driven in a rash and negligent manner. The name of the driver of the truck was later on came to be known as Gajjan Singh son of Shingara Singh, resident of Hariao, the present petitioner. The truck was overtaking a motor cycle and in this process, it rammed into the car of Gagandeep Singh. Seeing this accident, the complainant stopped his car and raised hue and cry, which attracted public, with whose help, Gagandeep Singh was taken out of the car. However, Gagandeep Singh died at the spot, whereas the other occupants of the car as well as the motorcyclist suffered serious injuries. On the basis of investigation, the police submitted challan and copies of documents were duly supplied to the accused free of cost, as envisated under Section 207 CrPC.

Learned trial Court after recording the evidence and hearing learned counsel for the parties, vide judgment dated

3.8.2013, held the petitioner guilty for offence under Sections 279, 338, 304-A IPC and sentenced him as under:-

<i>“U/s 279 IPC</i>	<i>Rigorous imprisonment for a period of six months and fine of Rs.1000/-. In default of payment of fine, simple imprisonment for a period of 15 days.</i>
<i>U/s 338 IPC</i>	<i>Rigorous imprisonment for a period of two years and fine of Rs.1000/-. In default of payment of fine, simple imprisonment for a period of one month.</i>
<i>U/s 304-A IPC</i>	<i>Rigorous imprisonment for a period of two years and fine of Rs.3000/-. In default of payment of fine, simple imprisonment for a period of one month.”</i>

Against the aforesaid judgment of conviction and sentence, the petitioner preferred an appeal. However, learned Additional Sessions Judge, Patiala, vide judgment dated 24.3.2015 did not interfere in the judgment passed by the trial Court and dismissed the appeal. Accordingly, the petitioner was taken into custody to serve the remaining part of the substantive sentence.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition challenging the judgments and decrees passed by the Court below.

On 19.8.2015, this Court has passed the following order:-

“After arguing for some time, learned counsel for the petitioner confines his arguments only qua the quantum of sentence.

Notice of motion only to this extent for 21.09.2015.”

Confining his arguments to the extent of aforesaid statement made by learned counsel for the petitioner, he submits that the petitioner is first time offender and as against the maximum awarded sentence of two years, he is in custody since 24.3.2015 apart of the custody during trial. He belongs to a poor family and is required to take care of his family, therefore, taking a lenient view of the matter and considering the long pendency of proceedings as well as the fact that there is no other case against the petitioner, the sentence of the petitioner be reduced to the period already undergone by him. Learned counsel further submitted that the legal heirs of the deceased Gagandeep Singh have already been granted compensation by the Motor Accident Claims Tribunal under the Motor Vehicles Act, 1988 and thus, they have duly been compensated in terms of money. Learned counsel for the petitioner has placed reliance on judgment of Hon'ble the Apex Court in the case of **State of Punjab Versus Saurabh Bakshi 2015(2) RCR (Criminal 495** in support of his plea that the sentence awarded to the petitioner be reduced to the period already undergone by him.

I have heard learned counsel for the parties.

While taking into consideration the background that the petitioner is suffering the agony of trial for the last more than 6½ years, as the FIR in question was registered on 18.1.2009, this Court feels that the sentence awarded to the petitioner needs modification.

Further, as against the total sentence of two years, he has suffered

incarceration for sufficient long period of about 6½ years and there is no other criminal case pending against the petitioner. The ends of justice would be met in case the conviction of the petitioner accused is upheld, but the sentence awarded to him is reduced to the period already undergone by him, however, subject to payment of compensation to the victim's family.

The Hon'ble Supreme Court in a recent judgment in **State of M.P. Versus Mehtaab 2015(1) RCR (Criminal) 1008** has held that when the accused was found guilty of causing death by negligence, the High Court was not justified in reducing sentence of imprisonment to the period of 10 days without awarding any compensation to the legal heirs of the deceased. As such, the Apex Court while modifying the order passed by the High Court had held that the order of the High Court can be upheld only with the modification that the accused will pay reasonable compensation to the heirs of the deceased. This judgment was also followed by this Court in **Criminal Revision No.429 of 2015 decided on August 05, 2015** titled as ***Surinder Singh Versus State of Punjab*** and **Criminal Revision No.2071 of 2005 decided on September 09, 2015** titled as ***Virender Singh Versus State of Haryana***.

The Hon'ble Supreme Court in **State of Himachal Pradesh Versus Ram Pal 2015(2) RCR (Criminal) 127** has also considered the similar controversy and has observed in para Nos.13

and 14 of the judgment as under:

*“13. It is evident from the facts and circumstances of the case that the respondent has not called in question his conviction. We have before us only challenge to the inadequacy of the sentence in the present appeal filed by the State. Moreover, in an appeal under Article 136 of the Constitution, this Court does not re-appreciate the evidence, in absence of perversity or patent legal error, merely because a different view was also possible. We are thus, not inclined to reopen the correctness of conviction of the respondent and proceed to consider the question of adequacy of the sentence. In our view, the sentence of mere fine of Rs.40,000/- imposed by the High Court is not adequate and proportionate to the offence. We have been informed that a sum of Rs.3,60,000/- has been awarded as compensation by the insurance company to the heirs of the deceased. We are also of the view that where the accused is unable to pay adequate compensation to the victim or his heir, the Court ought to have awarded compensation under Section 357A against the State from the funds available under the Victim Compensation Scheme framed under the said section. This Court has dealt with the issue in **Suresh vs. State of Haryana, 2015 (1) RCR (Criminal) 148, Manohar Singh vs. State of Rajasthan & Ors. 2015 (1) RCR (Criminal) 747 and State of M.P. vs. Mehtaab 2015 (1) RCR (Criminal) 1008.***

Having regard to totality of circumstances of the present case, we feel that ends of justice will be served if the accused is required to pay total

compensation of Rs.1 lakh and the State to pay a sum of Rs.3 lakhs.

14. Accordingly, we modify the impugned order passed by the High Court and enhance the compensation to be paid by the respondent accused to Rs.1 lakh to be paid within four months failing which the sentence awarded by the Court of Session shall stand revived. In addition, we direct the State of Himachal Pradesh to pay interim compensation of Rs.3 lakhs. In case the respondent fails to pay any part of the compensation, that part of compensation will also be paid by the State so that the heirs of the victim get total sum of Rs. 4 lakhs towards compensation. The amount already paid may be adjusted.”

Accordingly, the conviction of the petitioner-accused is upheld but the sentence is reduced to the period already undergone by him subject to payment of compensation of Rs.40,000/- to be paid to the legal heirs of deceased Gagandeep Singh within three months from today, in the light of the judgments of Hon'ble Supreme Court in **Mehtaab's case (supra)** and **Ram Pal's case (supra)**, failing which he shall be liable to undergo imprisonment as awarded by the trial Court and affirmed by the lower appellate Court.

The petitioner shall deposit the compensation amount in the trial Court and the trial Court shall disburse the same to the legal heirs of the victim after issuing notice to the complainant side.

With the aforesaid modification, the present revision petition is disposed of.

October 01, 2015
AK

(HARI PAL VERMA)
JUDGE