

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

**Criminal Revision No.2565 of 2014 (O&M)
Date of Decision: September 30, 2015**

Swaran Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Rakesh Kumar, Advocate,
for the petitioner.

Mr.K.S.Pannu, DAG, Punjab.

- 1. Whether Reporters of Local papers may be allowed to see the judgment?
- 2. To be referred to the Reporters or not?
- 3. Whether the judgment should be reported in the Digest?

Naresh Kumar Sanghi, J.(Oral)

Challenge in this criminal revision petition is to the judgment dated 19.05.2014 passed by learned Additional Sessions Judge, Kapurthala, whereby the criminal appeal filed by the petitioner challenging his conviction and sentence for the offences punishable under Sections 279 and 304-A, IPC, passed by learned Chief Judicial Magistrate, Kapurthala, was dismissed.

Learned counsel for the petitioner submits that in view of the concurrent findings of both the Courts below, he does not want to challenge the conviction of the petitioner for the offences punishable under Sections 279 and 304-A, IPC,

however, there are fairly arguable points in the criminal revision petition so far as the quantum of sentence is concerned and as such, the present be disposed of after considering the later argument.

Learned counsel for the State has no objection to the disposal of the present criminal revision petition at this stage.

Learned counsel for the petitioner submits that the occurrence had taken place on 20.10.2005 and since then, the petitioner is facing the agony of trial, appeal and of the present criminal revision petition; the petitioner is only the breadwinner for his family; the petitioner is a first offender; the petitioner is neither required nor involved in any other case and that the petitioner has suffered incarceration for one year and approximately eight months out of the maximum awarded sentence i.e. rigorous imprisonment for two years and as such, he may be let off after reducing the substantive sentence to the period already undergone by him.

Learned counsel for the State submits that both the Courts below have assigned cogent reasons for holding the petitioner guilty for the offences punishable under Sections 279 and 304-A, IPC and as such, learned counsel for the petitioner has rightly opted not to challenge the conviction of the petitioner. In order to show the period of incarceration suffered

by the petitioner, an affidavit of the Superintendent, Central Jail, Jalandhar at Kapurthala, has been produced which is taken on record. Learned counsel for the State fairly concedes that including the remission period, the petitioner has undergone one year and approximately eight months of the substantive sentence.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

The brief facts of the case are that the FIR in the present case was registered on the statement of Surinder Singh s/o Lachhman Singh (PW-2). He disclosed to the police that he (PW-2) in the company of Joginder Singh @ Bawa, was going towards petrol pump while riding scooter bearing registration No.PB-09-C-1751. In the meantime, a truck bearing registration No.PB-08-H-0575 being driven by the petitioner in a rash or negligent manner at a very fast speed and without blowing horn, came from the side of railway station and while in process of crossing another vehicle, hit the scooter being driven by Joginder Singh @ Bawa (since deceased). Resultantly Joginder Singh @ Bawa and Surinder Singh fell down on the road and suffered the injuries. Joginder Singh @ Bawa succumbed to the injuries received in the accident. During investigation, the

petitioner was arrested, the accidental vehicles were taken into possession and after completion of the investigation, the charge-sheet (challan) was presented before learned Area Judicial Magistrate.

Finding a prima facie case, the charges for the offences punishable under Sections 279 and 304-A, IPC, were framed to which the petitioner pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined PW-1 HC Gurdip Singh, PW-2 Surinder Singh (informant), PW-3 Dr.Harmeet Singh Aneja, PW-4 Amarjit Kaur, Clerk, DTO Office, Kapurthala, PW-5 Lalit Kumar, PW-6 HC Amrik Singh, PW-7 Rajeshwar Dutt retired Head Constable, PW-8 Bharat Bhushan, PW-9 ASI Jagjit Singh and PW-10 SI Sulakhan Singh.

After the prosecution evidence was led, the statement of the petitioner, in terms of Section 313, Cr.P.C., was recorded. The petitioner denied the incriminating evidence appearing against him and pleaded false implication in the present case. In his defence, the petitioner examined Kashmir Singh as DW-1.

After hearing learned counsel for the parties, learned trial Court held the petitioner guilty for the offences punishable under Sections 279 and 304-A, IPC, and awarded the following sentence:-

Offence	Sentence (R.I.)	Fine (₹)	In default
279, IPC	Six months	1000/-	20 days
304-A, IPC	Two years	500/-	10 days

Both the sentence were ordered to run concurrently.

Dissatisfied with the judgment of conviction and order of sentence passed by learned Chief Judicial Magistrate, Kapurthala, the petitioner preferred an appeal and the same was dismissed in toto by learned Additional Sessions Judge, Kapurthala, vide judgment dated 19.05.2014 and hence, the present criminal revision petition challenging both the judgments passed by Courts below.

Perusal of the material available on record would reveal that both the Courts below have rightly held that the petitioner committed the offences punishable under Sections 279 and 304-A, IPC. The deposition of Surinder Singh (PW-2) and the other prosecution witnesses would clearly show that on the fateful day, the petitioner drove the offending vehicle in a rash or negligent manner and caused the death of Joginder Singh @ Bawa and as such, learned counsel for the petitioner has rightly opted not to challenge the conviction of the petitioner.

There appears to be substance in the alternative argument of learned counsel for the petitioner when he submitted that the petitioner has already suffered the agony of

trial, appeal and of the present criminal revision petition for ten years; the petitioner is a first offender; he is neither required nor involved in any other case; he is only bread winner for his family; the petitioner has already suffered incarceration, including the remissions granted to him, of one year and eight months; the jail remissions granted to the petitioner would show that he was improving himself during his incarceration and that the sentence of one year and approximately eight months suffered by the petitioner would be sufficient in the facts and circumstances of the case and as such, the substantive sentence awarded for the offences punishable under Sections 279 and 304-A, IPC, is reduced to the period already undergone i.e. 01 year, 03 months and 12 days by the petitioner. The fine imposed and the sentence awarded in default thereof by learned trial Court is maintained.

With the above modification in the order of sentence, the present petition is partly allowed. The petitioner be released immediately if not required in any other case.

September 30,2015
seema

(Naresh Kumar Sanghi)
Judge