

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

**CRR NO. 3375 OF 2014 (O&M)
DECIDED ON : 08.01.2015**

Som Raj Singh @ Som Raj

...Petitioner

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. R. K. Girdhar, Advocate,
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

K. C. PURI, J. (ORAL)

Challenge in this revision petition is to the judgment dated 11.09.2014 passed by Shri B.S.Sandhu, Sessions Judge, Pathankot, vide which the appeal preferred by the accused-appellant now revisionist against the judgment of conviction and order of sentence dated 01.04.2013 passed by Shri Randhir Verma, Chief Judicial Magistrate, Pathankot, convicting and sentencing him under Sections 279/304-A/427 of the Indian Penal Code (in short "the IPC"), was dismissed.

Briefly stated, the case of prosecution is that Mohinder Singh (complainant) got recorded his statement to ASI Gurmej Singh to the effect that on 30.03.2010 at about 4:00 PM, he and Balbir Singh were standing on the road leading from Fatehpur to their village Bhagwanpur near Dera of Des Raj. Lakhbir Singh s/o Mohinder Singh was employed in JK Rifle Assam and was on leave on that date. He was coming from the side of Fatehpur on his motorcycle TVS Sports. A mini bus bearing registration No. PB-06-H-9701 being driven by the accused came from the opposite side. The said bus was being driven by the accused at a very high speed and in rash and negligent manner. He brought the bus on the wrong side, without blowing horn and he dashed the bus against the motorcycle of Lakhbir Singh, due to which Lakhbir Singh fell on the road and received injuries. Balbir Singh and Mohinder Singh immediately shift the injured to Chouhan Hospital, Dinanagr in unconscious condition where the doctor declared him dead. He was going to police station but ASI Gurmej Singh met him at the turning of Bhagwanpur and he narrated whole incident to him. On the basis of his statement, formal FIR was registered. Investigation was carried out. Rough site plan was prepared. Statements of witnesses were recorded. The accused was arrested. After completion of investigation, challan was presented in the Court.

Copies of challan as envisaged under Section 207

Cr.P.C, were supplied to the accused free of costs.

Charge under Sections 279/304-A/427 of the Indian Penal Code was framed against the accused, to which he pleaded not guilty and claimed trial.

In order to bring home the guilt of accused, prosecution examined Balbir Singh as PW-1, Mohinder Singh-complainant as PW-2, Dr.Surinder Kumar as PW-3, SI Gurmej Singh as PW-4 and ASI Surinder Kumar. Thereafter the prosecution closed the evidence.

Statement of the accused under Section 313 Cr.P.C was recorded wherein all the incriminating evidence was put to him to which he denied and claimed false implication.

The accused was called upon to lead defence evidence but he has not examined even a single witness.

Learned trial Court, after appraisal of the evidence, convicted and sentenced the accused as under :-

<i>S.No</i>	<i>Under Section</i>	<i>Rigorous Imprisonment</i>	<i>Fine</i>	<i>In default</i>
1	279 IPC	Six months	Rs.100/-	RI for 30 days
2	304-A IPC	Two year	Rs.200/-	RI for 30 days
3	427 IPC	One year	Rs.100/-	RI for 30 days

However, all the sentences were ordered to run concurrently.

Feeling dissatisfied with the above said judgment of conviction and order of sentence dated 01.04.2013 passed by

Chief Judicial Magistrate, Pathankot, accused preferred appeal. The said appeal was dismissed vide judgment dated 11.09.2014 passed by Sessions Judge, Pathankot.

Still feeling dissatisfied with the judgment of conviction/order dated 01.04.2013 passed by Chief Judicial Magistrate, Pathankot and judgment dated 11.09.2014 passed by Sessions Judge, Pathankot, the accused/appellant has preferred the instant revision petition.

Learned counsel for the petitioner has not challenged the conviction recorded by both the courts below and has pressed the revision petition regarding quantum of sentence only. Accordingly, notice of motion was issued regarding quantum of sentence only vide order dated 03.11.2014.

Learned counsel for the petitioner has submitted that petitioner is not a previous convict nor involved in any other case. He has further contended that petitioner is facing trial since 2010 i.e for the last about five years.

To support his contentions, learned counsel for the petitioner has relied upon authority "**B. Nagabhushanam vs. State of Karnataka**" **2008 (3) RCR (Criminal) 50** and has submitted that the Hon'ble Apex Court uphold the sentence awarded by both the courts below of six months.

The Himachal Pradesh High Court in authority "**Devi Singh vs. State of H.P**" **2013 (2) RCR (Criminal) 52** reduced the sentence to six months while upholding the conviction. So,

prayer has been made for reducing the sentence under Sections 304-A and 427 IPC to six months in stead of two years and one year respectively.

Learned State counsel has opposed the prayer and has supported the judgment passed by both the courts below.

I have considered the submissions made by both the sides and have gone through the records of the case.

So far as ***B. Naghabhushanam's case (supra)*** is concerned, in that case the sentence of one year was awarded by both the courts below. However, the High Court reduced the sentence under Section 304-A IPC to six months. The accused/appellant filed Special Leave to Appeal before the Hon'ble Apex Court and the said SLP was dismissed while observing that bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the Probation of Offenders Act. Since there was no appeal on behalf of the State and only the accused/convict has approached the Hon'ble Apex Court for taking lenient view and as such, the said judgment is not helpful to the case of petitioner in any manner. Moreover, the occurrence in that case relates to the year 1999 and the decision was made by the Hon'ble Apex Court in the year 2008.

In authority ***Devi Singh's case (supra)***, the Himachal Pradesh High Court reduced the sentence to six months in stead of two years awarded by both the courts below. The occurrence in that case relate to year 1998 and the High Court decided the case in the year 2013.

So far as the facts and circumstances of the present case are concerned, the accused is not a previous convict nor involved in any other case. The occurrence relates to the year 2010. So, the ends of justice would be met in case the sentence of the petitioner under Section 304-A IPC is reduced to one year in stead of two years as awarded by the trial court. I order accordingly. However, the sentence of fine under Section 304-A IPC and the sentence of imprisonment and fine under Section 279 IPC and 427 IPC stand affirmed. However, all the sentences are ordered to run concurrently, as ordered by the trial court.

The copy of order be sent to the concerned quarters for strict compliance.

JANUARY 08, 2015
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(K. C. PURI)
JUDGE