

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CRR No.3456 of 2015
Date of Decision : 29.9.2015

Surjit Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr. P.S. Ahluwalia, Advocate for the petitioner.
Mr. K.D. Sachdeva, Addl. A.G., Punjab.
Mr. B.D. Sharma, Advocate for respondents no.2 and 3.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Present criminal petition is directed against the impugned judgement dated 27.7.2015 passed by the learned Additional Sessions Judge, Jalandhar, whereby appeal of the petitioner was partly accepted reducing his sentence from one year R.I. to 9 months R.I. upholding his conviction recorded by the learned trial court, vide impugned judgement of conviction dated 22.7.2014.

Briefly put, facts of the case necessary for disposal of the instant criminal revision petition, as recorded in para 2 of his impugned judgement by the learned Additional Sessions Judge, are that FIR in this case was registered on the written complaint made by one Sharan Singh son of Sadhu Singh which was to the effect that he is resident of House no.10187, Mohalla Ranjodh Pal, Habowal Kalan, Ludhiana and is working as a Clerk with Shri R.K. Sharma, Advocate at District Courts Ludhiana. On 30.12.2007, he alongwith Ujjagar

Singh son of Surjit Singh resident of Gali No.5 Habowal Khurd, Ludhiana was going towards Phagwara from Ludhiana through the Auto bearing registration No.PB 10 CC 0285. In connection with bringing articles from Phagwara on hire. The auto was being driven by Ujjagar Singh and the complainant was sitting with him. When the auto reached at G.T. Road, near village Khaira Bhattian at about 4.15 PM one Tata Safari of silver colour driven by a Sardar was coming from Phillaur side. The said Safari struck with the auto from behind with high speed, negligence and without blowing any horn. Due to the hit by the said Safari, the complainant fell down on the Kacha ground on the left side of the Auto and Ujjagar Singh who was driving the temp was trapped under the Auto, as the auto turned tilted upon him. The complainant raised hue and cry, upon which the driver of the Tata Safari stopped his vehicle, on which, the complainant noted down the number of Tata Safari as HR-05-Q-0009. A lot of people gathered at the spot on seeing the accident and all of them took out Ujjagar Singh from under the auto and he was taken to Mahal Hospital Goraya, where the doctor declared Ujjagar Singh as died. The driver of Tata Safari escaped from the hospital, while leaving his Safari at the hospital. On the information provided by the complainant ASI Gurmej Singh recorded the same and FIR in question was registered against the driver of the said Safari. During the course of investigation, the accused was arrested in this case on account of his being the driver of the Tata Safari in question. The investigation was completed and challan was presented in the trial court.

Police report under Section 173 (2) Cr.P.C. having been presented in the court, copy thereof alongwith documents attached therewith was supplied to the accused, as required under Section 207 Cr.P.C. A prima facie case was found to be made out and accordingly the accused was charge

sheeted for the commission of offences punishable under Sections 279, 304-A IPC. Accused pleaded not guilty and claimed trial. In order to prove its case, prosecution examined as many as 8 PWs, besides producing other relevant documentary evidence on record.

On conclusion of the prosecution evidence, statement of the accused was recorded under Section 313 Cr.P.C. All the incriminating material brought on record was put to the accused. He denied the allegations, alleged false implication and pleaded complete innocence. However, he did not lead any defence evidence.

After hearing learned counsel for the parties and going through the evidence brought on the record, learned trial court came to the conclusion that the prosecution has successfully proved its case, bringing home the guilt against the accused. Accordingly, the accused was held guilty and convicted for the offences punishable under Sections 279, 304-A IPC, vide impugned judgement of conviction dated 22.7.2014. Consequently, the convict was awarded the sentence vide impugned order of sentence dated 22.7.2014 and the sentence, reads as under :-

“	U/S	Sentence	Fine	In default
	279 IPC	RI for 6 months	--	---
	304-A IPC	RI for one year	Rs.500/-	10 days”

Feeling aggrieved, convict-petitioner filed his appeal, which came to be partly accepted by the learned Additional Sessions Judge, Jalandhar, vide impugned judgement dated 27.7.2015. Conviction of the petitioner was upheld and his sentence was reduced to a period of 9 months R.I. from one year R.I. Hence, this criminal revision petition at the hands of the convict.

Learned counsel for the petitioner submits that in view of an amicable settlement arrived at between the parties, which is clearly reflected from the orders passed by this court at pages 6 to 9 of the paper book and also the statements of parties at pages 9 and 10, let the present petition be considered for the limited purpose of quantum of sentence, while upholding the conviction of the petitioner. In this regard, he also placed reliance on the judgements of the Hon'ble Supreme Court in **Manish Jalan Vs. State of Karnataka**, 2008 (8) SCC 225 and **Puttaswamy Vs. State of Karnataka and another**, 2009(1) RCR (Crl.) 501 as well as the order dated 10.3.2014 passed by this court in CRR No.589 of 2014 (**Satinder Singh Vs. State of Punjab**), to contend that petitioner deserves the reduction of sentence to the period already undergone by him. Accordingly, he prays for allowing the present petition.

Learned counsel for respondents no.2 and 3 fairly states that the parties had arrived at an amicable settlement and he has got no objection in case the instant petition is allowed, reducing the sentence of the petitioner to the period already undergone by him. However, learned counsel for the State submits that the learned courts below have already shown sufficient leniency, while awarding sentence to the petitioner and he is not entitled for any reduction of sentence. He prays for dismissal of the present petition.

Having heard learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, noticed herein above, instant one has been found to be a fit case for reduction of sentence of the petitioner to the period already undergone by him.

It is a matter of record that as per the custody certificate filed by way of affidavit dated 28.9.2015, petitioner has undergone for a period of 3 months and 5 days, including the period of remission, out of total sentence awarded to him for a period of 9 months R.I. Two affidavits of even date i.e. 21.9.2015 of Sharan Singh S/o Sadhu Singh and Gurpreet Singh S/o Ujjagar Singh-respondents no.2 and 3 filed in the court today are taken on record and copies thereof have been supplied to learned counsel for the petitioner. Perusal of these affidavits would show that the parties have arrived at an amicable settlement through the intervention of respectables of the village. Under these circumstances, it can be safely concluded that the petitioner deserves the reduction of sentence to the period already undergone by him. The above said view taken by this court also finds support from the judgements of the Hon'ble Supreme Court in **Manish Jalan's case (supra)** **Putaswamy's case (supra)** as well as the order dated 10.3.2014 passed by this court in **Satinder Singh's case (supra)**.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this court is of the considered view that instant petition deserves to be partly accepted. Accordingly, conviction of the petitioner is upheld. However, his sentence is ordered to be reduced to the period already undergone by him. Petitioner is directed to be released forthwith, if he is not required in any other case.

Resultantly, with the above said observations made and directions issued, present petition stands disposed of.

29.9.2015

GS

GREESH SAHNI
2015.10.07 10:22
I attest to the accuracy and
integrity of this document
Chandigarh

(RAMESHWAR SINGH MALIK)
JUDGE

