

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

**Criminal Revision No.911 of 2014
Date of Decision:-03.3.2015**

Amrik Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. K.B. Raheja, Advocate
for the petitioner.

Mr. Sultan Singh Gill, Deputy A.G., Punjab.

HARI PAL VERMA J.

The present revision petition has been filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (hereinafter to be referred as 'Cr.P.C.') against the judgment dated 10.2.2014 passed by the learned Additional Sessions Judge, Ferozepur, vide which he dismissed the appeal as directed against the judgment and order dated 09.6.2012 passed by the Court of Shri Karnail Singh, PCS, the then learned Additional Chief Judicial Magistrate, Ferozepur, vide which he convicted the present revision-petitioner for an offence punishable under Section 304-A of the Indian Penal Code (hereinafter to be referred as 'IPC'). The learned Magistrate has sentenced the revision-petitioner to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.5,000/- and in default of payment of fine to further undergo rigorous imprisonment for six months.

Briefly stated the case of the prosecution is that on 28.1.2004 Dinesh Kumar complainant, who was working as Clerk in the Government High School, Sherkhan, along with Puran Chand, who was also working as a Clerk in Senior Secondary School, Village Waloor proceeded from Ferozepur by Bus to their respective schools. They alighted from the bus at Bus stop of Village Sandeh Hasham. One Kulwant Singh, Teacher also came there and they were talking with each other. In the meantime at about 9.05 a.m. a truck bearing registration No.PB05C-7722 came from Zira side, which was being driven in a rash and negligent manner at a very high speed. The vehicle struck against Puran Chand, who fell down in the road-side pits. Thereafter, the said truck dashed with the cemented Tharra (platform) and then tilted in the road-side pits. Puran Chand was taken to Civil Hospital, Ferozepur, whereby he succumbed to the injuries on the way to the Hospital. The accident had taken place due to rash and negligent driving of the driver of said offending truck. The matter was reported to the police by complainant Dinesh Kumar, who made his statement before ASI Satnam Singh. On the basis of statement, a formal FIR was registered against the accused. The police visited the place of accident and statements of witnesses were recorded. Rough site plan of the site was also prepared. The offending vehicle i.e. truck bearing registration No. PB05C-7722 was taken into police possession.

The revision-petitioner was charged accordingly by the learned trial Court to which he did not plead guilty and claimed trial. The prosecution examined as many as nine witnesses, namely, complainant Dinesh Kumar as PW1, Dr. Renu Singla, Medical Officer, Civil Hospital,

Ferozepur as PW2, Dr. Jajbir Singh Sandhu, Medical Officer, Civil Hospital, Ferozepur as PW3, HC Amarjit Singh as PW4, HC Beant Singh as PW5, ASI Satnam Singh, Investigating Officer as PW6, Kulwant Singh, eye witness as PW7, HC Jora Singh as PW8 and Joginder Singh as PW9 and thereafter, the prosecution closed its evidence.

Statement of accused in terms of Section 313 Cr.P.C. was recorded and the circumstances appearing against him were put to him to which he denied all the allegations and pleaded that a false case has been registered against him. However, he did not lead any evidence in his defence.

After hearing the prosecution and the defence counsel, the learned trial Court convicted the present revision-petitioner for offence punishable under Section 304-A IPC and sentenced him for the said offence as aforementioned. Appeal against the said judgment and order was also dismissed before the Court of Sessions and hence the present revision petition.

It is settled principle of law that in its revisional jurisdiction, this Court is not to reappreciate and reappraise the evidence until and unless, it comes to the conclusion that the findings recorded by the trial Court are perverse, illegal and erroneous on account of misreading of evidence. The Courts below while relying upon the cogent and convincing evidence of prosecution witnesses, were right in coming to the conclusion that the prosecution had proved its case against the accused beyond a reasonable shadow of doubt.

Initially, notice of motion was issued in the case on 20.3.2014.

However, on 27.11.2014, learned counsel for the petitioner has confined his submission qua the quantum of sentence only. It is, thus, the present revision petition is required to be decided on the issue of quantum of sentence only.

The revision-petitioner should have taken extra care and should have driven the vehicle at a normal speed keeping sufficient distance from the people standing on the road. The very fact that the petitioner was driving the vehicle rashly and negligently at a very high speed and struck against Puran Chand, who fell down in the road-side pits and succumbed to the injuries on the way to the Hospital is not disputed. Hence, no fault can be found in the judgment of conviction passed by the learned trial Court and the impugned judgment passed by the learned Appellate Court dismissing the appeal against the judgment of conviction.

So far as the order of sentence is concerned, it has been argued by learned counsel for the revision-petitioner that the petitioner has already undergone about one year of sentence. It is further contended that he has been facing agony of the trial since the year 2004 i.e. for the last 11 years and hence it is contended that he should be given the benefit of probation under the Probation of Offenders Act, 1958 and the sentence be reduced to the sentence already undergone by him.

On the other hand learned State counsel has argued that the present revision-petitioner has taken away the life of a person by driving the vehicle in a rash and negligent manner and hence considering the above fact, no interference in the order of sentence passed by the learned

trial Court and the learned Appellate Court is called for.

I have heard learned counsel for the parties and perused the record with their able assistance.

While taking into consideration the facts that the present revision-petitioner is not a previous convict and that he has been facing the agony of the trial for the last about 11 years and the fact that he was about 35 years of age at the time of accident and by now his family responsibilities must have increased, I am of the view that the revision-petitioner deserves some leniency in the quantum of sentence. In the cases of Ram Pal v. State of Punjab, 2006(1) RCR (Crl.) 784, Santokh Singh v. State of Punjab, 2006(1) RCR (Crl.) 834, Chuni Lal v. State of Haryana 2006(1) RCR (Crl.) 844 and Roshan Lal v. State of Punjab, 2006 (1) RCR (Crl.) 795 it has been observed as under :-

'7. *In re: Chuni Lal (supra), this Court was pleased to observe that the accused may be released on probation in a case under Sections 279, 304-A, 337 Indian Penal Code on the following grounds*

:

- (i) Having remained on bail for a sufficiently long period,*
 - (ii) Accused not a previous convict and did not indulge in any criminal activity during the post conviction period,*
 - (iii) Faced agony of trial for a considerable long period, and*
 - (iv) being the sole bread earner.*
8. *In re: Roshan Lal (supra), which was also the case under Section 304-A of Indian Penal Code, the occurrence was 17 years old and the*

accused was released on probation by this Court. Further in re: Santokh Singh (supra), which was also a case under Section 304-A of Indian Penal Code, the incident was years old and the accused remained in custody for 15 days. He was also ordered to be released on probation by this Court. In re: Ram Pal (supra), which was also a case under Section 304-A of Indian Penal Code, this incident was years old and the accused had remained on bail for more than 13 years and was a first convict. He was also ordered to be released on probation by this Court.'

Similarly in the case of Paramjit Singh v. State of Haryana 2011(2) RCR (Criminal) 855, this Court has observed as under :-

- '31. *The appellant remained in custody for 11 days and suffered agony of protracted trial for more than 16 years. He is not a previous convict and has not misused the concession of bail. He is a Haryana Government servant. In his statement recorded on 13.9.2000, the appellant has stated that he has five children, wife and old aged parents to support.*
32. *Keeping in view peculiar facts and circumstances of the case and reformatory trend of modern penology, the present case eminently is a fit case in which the appellant deserves to be released on probation.'*

Hence, I am of the view that the ends of justice would be met if revision-petitioner is released on probation.

Accordingly, agreeing to the prayer of learned counsel for the

revision-petitioner that the sentence, which was awarded to the revision-petitioner should be reduced in as much as the maximum sentence was imposed upon the revision-petitioner. The revision-petitioner shall undergo imprisonment for a period of one year, which he has already undergone alongwith fine of Rs.5,000/-.

Harking back to the facts of the current case, there is nothing on the record to show that the revision-petitioner ever misused the concession of bail. He has completed the sentence of about one year without any complaint.

Under the above mentioned circumstances and by placing abundant reliance upon the observations made in the authorities sought to be relied upon by learned counsel for the revision-petitioner, I deem it appropriate where benefit of probation should be given. It is directed that the petitioner shall be released on probation for a period of two years under Section 4(1) of the Probation of Offenders Act on his furnishing personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the trial Court. The bonds shall be furnished within three months from the date of receipt of certified copy of judgment. During his probation period, he will keep the peace and be of good behaviour. However, he will come and receive sentence as and when required by the Court.

With the above observation, the revision-petition is disposed of.

March 03, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE