

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-706-2015 (O&M)

Date of Decision: February 27, 2015

Zaheed Ahmed

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. K.S. Dhillon, Advocate,
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab,
for the respondent.

NARESH KUMAR SANGHI, J (Oral)

CRM-6583-2015:

Prayer in this criminal miscellaneous application is for
condonation of delay of 51 days in filing the criminal revision
petition.

Notice of the application.

At the asking of the Court, Mr. K.S. Pannu, learned
Deputy Advocate General, Punjab, who is present in the Court,
accepts notice. A copy of the complete paper book has been
supplied to him by the learned counsel for the petitioner.

After hearing learned counsel for the parties and
going through the contends of the criminal miscellaneous

application, the same is allowed and the delay of 51 days in filing the criminal revision petition is condoned.

CRR-706-2015:

Challenge in this criminal revision petition is to the judgment dated 7.10.2014, passed by learned Sessions Judge, Sangrur, whereby the appeal filed by the petitioner challenging his conviction and sentence for the offences punishable under Sections 279 and 304-A, IPC, recorded by learned Judicial Magistrate Ist Class, Dhuri, was dismissed.

While opening his submissions learned counsel for the petitioner raised certain issues regarding merit of the case but immediately thereafter he submitted that in view of concurrent findings of both the Courts below, he did not intend to challenge the conviction of the petitioner. He further submitted that during trial and pendency of appeal, the petitioner was on bail and he did not misuse the said concession; the petitioner is a first offender; the petitioner is the sole bread winner for his family; the Motor Accidents Claims Tribunal, Sangrur, vide its award dated 10.4.2012, had awarded Rs. 25,00,000/- (Rupees Twenty-five Lacs only) alongwith interest @ 6% per annum in favour of the widow, son and mother of the deceased Bhupinder Singh; and that the petitioner has not been extended the benefit of doubt so far as his conviction is

concerned, but keeping in view the evidence and defects in the prosecution case, the petitioner can be extended the benefit in his sentence. In support of his submissions, learned counsel has produced photostate copy of the award dated 10.4.2012, passed by the learned Motor Accidents Claims Tribunal, Sangrur, which is taken on record.

Learned counsel for the State has no objection to the first prayer of the learned counsel for the petitioner with regard to conviction of the petitioner. However, he submits that an efficient police officer, namely, HC Bhupinder Singh, has since died and, as such, the sentence for the offence punishable under Section 304-A, IPC, awarded by learned Court below, should not be disturbed. However, he has not controverted the submissions of the learned counsel for the petitioner that the petitioner was a first offender or that he was on bail during pendency of the trial and appeal and that he was the sole bread winner for his family.

Though learned counsel for the petitioner has proposed not to challenge the conviction of the petitioner, but to satisfy the conscience of this Court the material available on record has been re-scanned.

Brief facts of the case are that on 7.5.2010, PW-2 Jaswant Singh informed the police that HC Bhupinder Singh (since deceased) was his brother-in-law (*Jija*). On that day, the

informant had visited Malerkotla and there he met Bhupinder Singh, who had gone there in connection with the official duty. Both of them took a cup of tea together and then both left for Sangrur on their respective motorcycles. Bhupinder Singh (since deceased) was going ahead of the informant. At about 1:30 p.m. they reached near bus stand of village Bhasaur, then a Mahindra vehicle, bearing Registration No. PB-11-AF-9558, being driven by the petitioner in a rash or negligent manner at a fast speed came from the opposite side and hit against the motorcycle being driven by Bhupinder Singh. Resultantly, Bhupinder Singh fell down on the metalled road and received multiple simple and grievous injuries on his person. The motorcycle was also badly damaged. The offending vehicle thereafter turned turtle. In a police vehicle, Bhupinder Singh was shifted to Civil Hospital, Dhuri, where he was declared dead. On the basis of the statement suffered by the informant, the FIR was registered.

The matter was thoroughly investigated. The petitioner was arrested and thereafter the charge-sheet (report under Section 173, Cr.P.C.) was presented before learned Area Judicial Magistrate, Dhuri. The charges for the offences punishable under Sections 279 and 304-A, IPC, were framed.

In order to prove its case, the prosecution examined

Dr. Sukhbir Singh as PW-1; Jaswant Singh as PW-2; HC Leela Khan, Mechanic, as PW-3; Ravinder Sharma, Clerk from the office of District Transport Officer, Patiala, as PW4; Harinderpal Singh as PW-5; Pawan Kumar, Clerk from the office of District Transport Officer, Sangrur, as PW-6; SI Gurbhajan Singh, who investigated the case, as PW-7; and HC Harmesh Singh as PW8. After tendering registration certificate (Ex. PX) of the offending vehicle and driving licence (Ex.PY) of the petitioner, the prosecution evidence was closed.

The statement of the petitioner in terms of Section 313, Cr.P.C., was recorded in which he denied the allegations and pleaded innocence. No evidence in defence was led.

After hearing learned counsel for the parties, learned Trial Court held the petitioner guilty for having committed the offences punishable under Sections 279 and 304-A, IPC, and ordered him to undergo the following sentences:-

Under Section	Sentence (R.I.)	Compensation & Fine
279, IPC	6 months	Rs. 45,000/- (Rupees forty-five thousand only) as compensation in terms of Section 357(3), Cr.P.C., to be paid to the family members of the deceased, i.e. his widow or his son or daughter, as the case may be, and in default thereof to undergo further R.I. for three months. Fine to the tune of Rs. 5000/- (Rupees five thousand only)
304-A, IPC	2 years	

Dis-satisfied with the judgment of conviction and the order of sentence, the petitioner preferred an appeal before the Court of Session and the same was dismissed after modification in the order of payment of compensation. The first Appellate Court ordered that the entire amount of Rs. 50,000/- shall be payable as compensation in terms of Section 357(3). It was further ordered that both the substantive sentences shall run concurrently.

Perusal of the material available on record, particularly the deposition of Jaswant Singh (PW-2) would clearly spell out that the accident in question had taken place on account of rash or negligent act on the part of the petitioner while driving the offending vehicle. The depositions of the remaining prosecution witnesses would fortify the narration of PW-2 Jaswant Singh and, as such, this Court is of the considered view that both the learned Courts below have rightly held the petitioner guilty for the offences punishable under Sections 279 and 304-A, IPC.

There appears to be substance in the alternative arguments of the learned counsel for the petitioner when he submitted that the petitioner was a first offender; he was the sole bread winner for his family; during pendency of the trial and the

appeal he was on bail, but he did not misuse the said concession; the legal heirs, i.e. widow, son and mother of HC Bhupinder Singh, were duly compensated by the learned Motor Accidents Claims Tribunal, Sangrur; and that extreme imprisonment provided under Section 304-A, IPC, was un-called for in the present case and, as such, the substantive sentence for the offence punishable under Section 304-A, IPC, is reduced to rigorous imprisonment for one year. The remaining order of sentence and compensation passed by the learned first Appellate Court shall remain undisturbed. Both the sentences, i.e. under Section 304-A, IPC, as modified by this Court and under Section 279, IPC, as awarded by both the Courts below, shall run concurrently.

With the above modification in the order of sentence, the present criminal revision petition is partly allowed.

(NARESH KUMAR SANGHI)
JUDGE

February 27, 2015
Pkapoor