

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No.762 of 2015 (O&M)

Date of Decision: August 06, 2015

Parsa Ram son of Jallu RamPetitioner

Versus

State of PunjabRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Ms.Divya Godara, Advocate
for the petitioner.

Mr.Nikhil K.Chopra, Deputy Advocate General, Punjab.

Ms.Saloni Sharma, Advocate for the complainant.

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TEJINDER SINGH DHINDSA, J.

The present revision petition is directed against the judgment dated 13.2.2015 rendered by the learned Sessions Judge, Sangrur dismissing the appeal filed by the petitioner-accused against the judgment of conviction and order of sentence dated 23.8.2013 passed by the Judicial Magistrate Ist Class, Dhuri, vide which the petitioner-accused was convicted for offences under Sections 279/304-A of the Indian Penal Code and sentenced as under:

- 1.To undergo rigorous imprisonment for a period of six months under Section 279 of Indian Penal Code; and

2.To undergo rigorous imprisonment for a period of two years under Section 304-A of the Indian Penal Code.

2. The petitioner was further directed to compensate the family members of the deceased to the tune of ₹30,000/- in terms of Section 357(3) of the Code of Criminal Procedure. It is also directed that in default of payment of compensation, accused-petitioner would further undergo rigorous imprisonment for a period of three months.

3. Briefly stated, case of the prosecution is that Makhan Ram had got his statement recorded that on 10.11.2011, he along with his father was going from village Kakarwal to City Dhuri on their respective bicycles. At about 4.30 p.m. when they reached near the FCI Godowns, a truck trailer bearing registration No.RJ21GA4711 being driven in a rash and negligent manner struck against the bicycle of his father and as a result thereof, father of the complainant was run over under the rear tyre of the vehicle and he died on the spot. It was further stated that the driver of the truck trailer tried to flee from the spot, but the complainant along with the help of persons gathered on the spot apprehended the driver, who, on asking, disclosed his name as Parsa Ram.

4. After completion of investigation, report under Section 173 of the Code of Criminal Procedure was filed against Parsa Ram, petitioner-accused to face trial. He stands convicted and sentenced by the trial Court as afore-noticed and appeal filed by him against the judgment of conviction and order of sentence has been dismissed by the learned Sessions Judge, Sangrur.

5. Learned counsel appearing for the petitioner makes a submission that she is not assailing the conviction on merits but would confine the scope of instant revision petition only as regards quantum of sentence. Learned counsel would submit that the petitioner is a poor person and the sole bread-winner of the family.

6. Learned State counsel would, however, submit that a life has been lost on account of the rash and negligent driving of the petitioner and as such, there would be no occasion for this Court to interfere with the quantum of sentence. Learned State counsel has referred to a recent judgment of the Hon'ble Supreme Court of India in Criminal Appeal No.520 of 2015 (arising out of SLP (Criminal) No.5825 of 2014 "**State of Punjab v. Saurabh Bakshi**"), decided on 30.3.2015 in support of his contention.

7. Learned counsel for the parties have been heard and the judgments rendered by the Courts below have been perused.

8. In **Saurabh Bakshi's** case (supra), accused had been convicted for offences under Sections 279/304-A of the Indian Penal Code for having caused death of two persons by rash and negligent driving of motor vehicle. The High Court while dealing with the revision petition filed by the accused therein had taken notice of a deposit of ₹85,000/- having been made before the trial Court towards compensation to be paid to the legal representatives of the two deceased persons and while upholding the conviction of Saurabh Bakshi had reduced the sentence to the period already undergone i.e. of 24 days. It is in the light of such facts that the Hon'ble Supreme Court had accepted the

appeal preferred by State of Punjab and had observed that the High Court had been swayed by the passion of mercy in applying the principle that payment of compensation is a factum for reduction of sentence to 24 days. It was held that such course was in the realm of mis-placed sympathy. It was further held that it cannot be said as a proposition of law that whenever an accused offers acceptable compensation for rehabilitation of a victim, regardless of the gravity of the crime under Section 304-A of the Indian Penal Code, there can be reduction of sentence.

9. In **Shailesh Jasvantbhai v. State of Gujarat, (2006) 2 SCC 359**, it had been observed by the Apex Court as under:

“.....The concept of proportionality allows a significant discretion to the Judge but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect – propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the value-based social mainstream may be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner. We may

hasten to add that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion."

10. Adverting back to the facts of the present case, undoubtedly, a life has been lost. However, there are sufficient mitigating circumstances which would justify this Court's intervention as regards quantum of sentence.

11. The incident relates back to the year 2011. The petitioner has faced the pangs of trial followed by appeal for the period of almost four years. He is stated to be a poor person and the sole bread-winner of the family. As per custody certificate furnished by the learned State counsel, the petitioner has already undergone a custody period of 5 months and 10 days as on 23.7.2015. In other words, as of date, out of the substantive sentence of 18 months awarded, the petitioner has undergone a total sentence period of almost 6 months. He is not stated to be involved in any other criminal proceedings. During the course of trial, the petitioner was on bail and he, concededly, has not mis-used such concession.

12. It would also be apposite to take note of the fact that learned counsel for the complainant has made a statement that even a compromise and settlement has been arrived at with the petitioner and suitable compensation has already been received.

13. Taking into account the afore-noticed mitigating circumstances, the present revision petition is partly allowed to the extent of upholding the conviction of the petitioner but

reducing the sentence of the petitioner to the period already undergone. In the light of the settlement having already been arrived at between the parties and suitable compensation having already been paid, there will be no requirement for the petitioner/accused to pay a sum of ₹30,000/- as had been directed by the trial Court under Section 357(3) of the Code of Criminal Procedure.

14. The petitioner would be released forthwith if not wanted in any other case.

15. Disposed of accordingly.

August 06, 2015
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether to be referred to Reporter? (Yes/No)