

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

**CRR No.848 of 2015 (O&M)
Date of Decision: 13.10.2015**

Puran Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Ms. G.K.Mann, Advocate
for the petitioner.

Mr. D.S.Virk, AAG, Punjab.

- 1. To be referred to the Reporters or not?**
- 2. Whether the judgment should be reported in the Digest?**

RAMESHWAR SINGH MALIK J.

Present criminal revision petition, at the hands of the convict, is directed against the impugned judgment dated 24.2.2015, passed by the learned Additional Sessions Judge, Ludhiana, whereby appeal of the petitioner against the judgment of conviction and order of sentence of even date i.e. 8.4.2011 was dismissed, however, sentence was reduced from 2 years to 1 year RI.

Brief facts of the case, as recorded by the learned Additional Sessions Judge, in para 2 of the impugned judgment, are that a case was registered on the statement of Iqbal Singh recorded by the police on 30.8.2006 at 8 A.M., in the area of village Dakha.

The complainant recorded in his statement that on 29.8.2006 the brother-in-law (looser) of complainant namely Gurdass Singh suffered injuries on his head and other body parts due to the fall from a stairs at about 11 AM. Gurdass Singh was taken to Gupta hospital at Fazilka and at about 8 PM and the doctor of Gupta Hospital, Fazilka, referred the injured for Arora Hospital at Ludhiana. Gurdass Singh was taken to Ludhiana in an ambulance bearing registration No. PB-05F-6263. Raj Kumar was driver of the said ambulance van. In the van, Gurdass Singh and Mohinder Singh, Gurbant Singh and HarbansSingh @ Pandi were going to Ludhiana and Ajay Kumar compounder of the hospital was also with them. Complainant and his relative Amarjit Singh were following them in a separate Maruti car bearing registration No. PB-10AC-7354. It was about 11:15 PM, that when they reached in the area of village Mor Karima, then a Qualis vehicle bearing registration No. 10-AU-4342 came from the opposite side and the same was driven in a rash and negligent manner and the said driver of Qualis brought his vehicle towards right side (wrong side of the road) and he struck that Qualis vehicle with the ambulance and due to this accident, the driver of ambulance namely Raj Kumar died at the spot and other occupants of the ambulance suffered serious injures and the ambulance was damaged. Many people assembled there and in the meanwhile the driver of the Qualis escaped. The other injured were brought to Arora Hospital Ludhiana. This accident occurred due to rash and negligent driving of driver of Qualis vehicle. So, action against the accused was prayed for.

After conclusion of investigation, report under Section 173 of the Code of Criminal Procedure ('Cr.P.C.' for short) was presented and copy thereof alongwith documents attached therewith, was supplied to the accused. A prima facie case was found to be made out against the accused and accordingly, he was charge sheeted for the offences punishable under Sections 279/304-A IPC. Accused pleaded not guilty and claimed trial. In order to substantiate charges framed against the accused, prosecution examined as many as 10 PWs, besides tendering other relevant documents into evidence.

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

After hearing learned counsel for both the parties and going through the evidence brought on record, learned trial court came to the conclusion that prosecution has duly proved its case, bringing home guilt against the accused. Accordingly, accused was held guilty and convicted for the offences punishable under Sections 279/304/A IPC, vide impugned judgment of conviction dated 8.4.2011. Consequently, vide order of sentence of even date, convict was sentenced as under:-

<i>Under Sections</i>	<i>Sentence (RI)</i>	<i>Fine</i>	<i>In default of payment of fine to undergo RI</i>
279	6 months	Rs. 500/-	15 days
304-A	2 years	Rs. 500/-	15 days

Both the sentences were ordered to run concurrently.

The abovesaid impugned judgment of conviction and order of sentence were challenged by the petitioner by way of appeal, which also came to be dismissed by the learned Additional Sessions Judge, however, reducing the sentence from two years RI to one year RI, vide impugned judgment dated 24.2.2015. Hence this criminal revision petition.

Notice of motion was issued.

Learned counsel for the petitioner, at the very outset, submits that she does not intend to press this petition on merits. She further submits that let the conviction of the petitioner be upheld and the present criminal revision petition may be considered only for the purpose of reduction of sentence. She submits that as per custody certificate filed by way of affidavit dated 13.10.2015, petitioner has already undergone sentence for a period of 10 months and 14 days, including the period of remission, out of total sentence awarded to him for one year RI.

Highlighting the other mitigating circumstances in favour of the petitioner, learned counsel for the petitioner submits that petitioner is not a previous convict. He was the only breadwinner of the family. Petitioner has not been found involved in any other case. He has been facing agony of criminal trial for the last more than 9 years. She prays for reduction of sentence to the period already undergone by the petitioner.

Per contra, learned counsel for the State submits that learned courts below have already shown sufficient leniency to the petitioner, while awarding sentence on lower side. In such a situation,

there was hardly any scope for further reduction in the sentence. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, it is just and expedient to reduce the sentence of the petitioner to the period already undergone by him, while upholding his conviction. To say so, reasons are more than one, which are being recorded hereinafter.

It is a matter of record that petitioner is the first offender. He has been facing the agony of criminal trial for the last more than 9 years. Petitioner has not been found involved in any other case. Further, in terms of the custody certificate, he has already undergone the sentence for a period of 10 months and 14 days, including the period of remission, out of total sentence awarded to him for a period of 1 year RI. Having said that, this Court feels no hesitation to conclude that it would be in the fitness of things if the sentence of the petitioner is ordered to be reduced to the period already undergone by him, as it will squarely meet the ends of justice.

The view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in the case of **R. Soundarajan v. Seed Inspector, Coimbatore and another, 2006(4) R.C.R. (Criminal) 645; Umrao Singh v. State of Haryana, 1981 AIR (SC) 1723; Gulab Das and others Vs. State of M.P., 2012 (1) RCR (criminal) 220; S. Mahaboob Basha Vs. State of Karnataka, 2014**

(4) RCR (criminal) 769; Vinay and others and State of Karanataka and another, 2015 (2) RCR (criminal) 831; Nanda Gopalan Vs. State of Kerala, 2015 (2) RCR (criminal) 861 and Ravinder Singh Vs. State of Haryana, 2015 RCR (criminal) 698,

The relevant observations made by the Hon'ble Supreme Court in R. Soundarajan's case (supra), which can be gainfully followed in the present case, read as under:-

“26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment.”

In Umrao Singh's case (supra), the Hon'ble Supreme Court observed as under:-

“After hearing counsel for the parties, we are satisfied that this is a case falling under the proviso of Section 16(1)(a)(i) and therefore, for adequate

and special reasons, the sentence lower than the minimum prescribed could be awarded. The High Court itself felt bound to award the minimum sentence but on merits was satisfied that if the legal position warranted the appellant could be given lesser sentence. We are in agreement with the view of the High Court. The appellant/ petitioner is aged about 70 and suffering from asthma illness and has a clean past record. Besides, the percentage of deficiency that was noticed in the milk sold by him was 0.4% in the fat contents. 2. Having regard to these facts, the expression of the view of the High Court was justified. We accordingly reduce the sentence of the appellant to the period already undergone. The sentence, of fine is maintained and we are informed that he has already paid the fine. Since he is already on bail, he should be released forthwith. 3. The appeal is disposed of accordingly.”

Reverting back to the facts and circumstances of the case noted above and respectfully following the law laid down by the Hon'ble Supreme Court in the cases referred to hereinabove, it is unhesitatingly held that the petitioner is entitled for the limited relief of reduction of sentence to the period already undergone by him.

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 present petition deserves to be partly allowed to the extent indicated hereinabove.

Consequently, conviction of the petitioner is upheld, however, his sentence is ordered to be reduced to the period already undergone by him. Accordingly, petitioner is directed to be released forthwith, if he is not required in any other case.

Resultantly, with the modification in the sentence, as indicated above, the instant criminal revision petition is disposed of, accordingly.

(RAMESHWAR SINGH MALIK)
JUDGE

13.10.2015
Ak Sharma