

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

**Criminal Revision No.3081 of 2015 (O&M)
Date of Decision: 11.05.2016**

Ram Pal

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Ms. Diya Sodhi, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

Petitioner - Ram Pal has filed the present revision petition against judgment dated 2.3.2015 passed by learned Sessions Judge, Patiala, whereby the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 28.1.2014 passed by Sub Divisional Judicial Magistrate, Samana has been dismissed.

Learned Magistrate has convicted and sentenced the petitioner as under:-

<i>U/s 279 IPC</i>	<i>Rigorous imprisonment for a period of six months and fine of Rs.1000/-. In default of payment of fine simple imprisonment for a period of 15 days.</i>
<i>U/s 304-A IPC</i>	<i>Rigorous imprisonment for a period of two years and fine of Rs.9000/-. In default of payment of fine simple imprisonment for a period of 30 days.</i>

Both the sentences were ordered to run concurrently.

Briefly stated, case of the prosecution is that complainant - Sukhwinder Singh got his statement recorded to the effect that on 6.4.2011, he had gone to Khanauri in connection with some domestic work and after finishing the work, when he was returning and reached outer bus stand of Village Shutrana, he met his cousin Balbir Singh, who was on his motorcycle bearing registration No.PB-72-4740. After talking to each other, both of them proceeded towards their village on their respective motorcycles at about 7-30 P.M. Balbir Singh who was on his Platina motorcycle was little ahead to the complainant. When they had just covered a distance of 2-2½ kms towards Patran side and reached near Manesha Petrol Pump Patran, then one Canter bearing No.HR-01-GA-653 which was being driven rashly and negligently, came at a very fast speed and struck against the motorcycle of Balbir Singh, as a result of which, the Canter dragged the motorcycle of Balbir Singh to some distance. When

the complainant raised an alarm, the driver of the Canter stopped the vehicle and fled away from the spot, leaving the Canter at the spot. Many people gathered. They took the injured Balbir Singh to Civil Hospital, Patran, where the doctor referred him to Civil Hospital, Samana. However, when they were going to Samana, the injured Balbir Singh succumbed to his injuries.

On the basis of the statement of the complainant Ex.PW1/1, FIR No.82 dated 7.4.2011 under Sections 279 and 304-A IPC was registered at Police Station Patran and post-mortem examination was conducted on the dead body of Balbir Singh. After preparation of site plan of the place of accident, the Canter, its insurance policy as well as the motorcycle of the deceased were taken into possession. Consequently, the accused-petitioner was formally arrested on 24.5.2011 and was released on bail, as the offences were bailable.

After completion of investigation, challan was presented in the Court of Area Magistrate, Samana and copies of documents were supplied to the petitioner-accused free of costs, as provided under Sections 207 CrPC. Finding a *prima facie* case against the petitioner, he was charge-sheeted under Sections 279/304-A IPC, to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined as many as five witnesses. Statement of the petitioner-accused was recorded under Section 313 CrPC, in which, all the incriminating evidence against him was put to him, but he denied

all the allegations and claimed his innocence and false involvement in the case. However, he did not lead any evidence in defence.

Learned trial Court after hearing the parties and appreciating the evidence on record, convicted and sentenced the petitioner, as indicated above.

Aggrieved against the judgment of conviction and order of sentence, the petitioner filed an appeal before learned Sessions Judge, Patiala, which was dismissed vide judgment dated 2.3.2015.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition challenging the judgments passed by the Courts below.

On 30.11.2016, learned counsel for the petitioner had restricted his prayer only *qua* the quantum of sentence and therefore, notice of motion was issued only to that limited extent.

Learned counsel for the petitioner while reiterating his prayer, contended that apart from the fact that as against the awarded maximum sentence of two years, the petitioner is in custody for the last 1 year, 2 months and 8 days, there is no other case against him. She submitted that the petitioner has already suffered the agony of a protracted trial for the last more than 5 years since the registration of the FIR on 7.4.2011 and it should be a sufficient mitigating circumstance to treat him leniently.

Learned counsel further submitted that the wife of the deceased –

Balbir Singh is already settled, as she has got remarried. She, therefore, prayed that the sentence of the petitioner may be reduced to the period already undergone by him.

Learned State counsel has produced on record the custody certificate of the petitioner and does not dispute custody period of the petitioner.

I have heard learned counsel for the parties and gone through the record of the case.

This Court in *Criminal Revision No.429 of 2015* decided on August 05, 2015 titled as ***Surinder Singh Versus State of Punjab*** while placing reliance on a recent judgment of Hon'ble Supreme Court in ***State of M.P. Versus Mehtaab 2015(1) RCR (Criminal) 1008*** has reduced the sentence to the period already undergone, for the similar offences.

Considering the facts and circumstances of the case, this Court does not find any infirmity in the judgments passed by the Courts below. However, taking into account the fact that petitioner is suffering the incarceration for the last about 5 years and as against the awarded maximum sentence of 2 years, petitioner is in custody for 1 year, 2 months and 8 days, coupled with the fact that the widow of the deceased-Balbir Singh has remarried and is settled, this Court feels that ends of justice will be met if the sentence of the petitioner is reduced to the period already undergone by him.

Accordingly, while upholding the judgments passed by the Courts below, the present revision petition is dismissed, however, the sentence awarded to the petitioner is reduced to the period already undergone by him. The petitioner shall be released forthwith, if not required in any other case, subject to payment of fine, if not paid.

However, in case it is found that wife of the deceased- Balbir Singh is not remarried/settled, she will be at liberty to revive the present revision petition.

May 11, 2016
AK

(HARI PAL VERMA)
JUDGE