

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRR-3381 of 2015
Date of Decision: January 22, 2016.

Balwinder Singh
.....Petitioner

Versus

State of Punjab.
.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr. Rahul Gautam, Advocate
for the petitioner.

Mr.Ankur Jain, AAG.,Punjab

Rajan Gupta, J (Oral)

Petitioner had been convicted by Chief Judicial Magistrate,
Mohali under Sections 279 and 304-A IPC and was sentenced to undergo
imprisonment as under:-

Offence	Sentence
279 IPC	To undergo R.I for six months.
304-A IPC	To undergo R.I for two years and to pay fine of Rs.5000/-.

The petitioner preferred appeal before Additional Sessions
Judge, Mohali against the judgment of his conviction/sentence and the
same was dismissed vide judgment dated 11.5.2015. Feeling aggrieved
against the judgments of both the courts below, petitioner has approached
this court through the instant criminal revision.

Learned counsel for the petitioner at the outset states that he is
limiting his prayer only to the extent of reduction in the sentence awarded
and does not assail the judgment of conviction. He states that he is

conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:-

On 7.3.2007, on receiving information through police control room, the police party reached the market of Phase-2, Mohali that a person had died in an accident. After taking the photographs, dead body was taken to Civil Hospital, Mohali. Eye-witness-complainant-Rakesh Kumar Kalia, who was known to the deceased-Rajesh Kumar made a statement before the police that after meeting his uncle in Phase-11, Mohali, he was on his way to Kurali on his scooter. At about 10 PM when he reached at the turn of market of Phase 2, Mohali an Indo-canadian transport bus bearing No. PB-01-5081 while turning towards the Phase-2 market in a rash and negligent manner hit the motorcyclist-Rajesh Kumar. Deceased fell down on the road and the bus dragged him upto some distance. Balwinder Singh was the driver of the bus. Deceased suffered head injury and died on the spot. Thereafter, complainant informed the family members of the deceased about the said incident. Accordingly, FIR was registered and accused was arrested on 8.3.2007. On completion of the investigation, final report under Section 173 Cr.P.C against the accused driver was presented before the trial court.

Finding prima facie case under Sections 279/304-A IPC, charge was framed against the accused/petitioner to which he pleaded not

guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as eight witnesses.

The statement of the accused under Section 313 Cr.P.C was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the same and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of evidence on record, learned trial court held the petitioner guilty of the charges under Sections 279/304-A IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by Additional Sessions Judge, Fatehgarh Sahib vide orders dated 11.5.2015.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is a poor person and main bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record affidavit of Gulzar Singh, Deputy Superintendent, District Jail, Nabha, according to

which the petitioner had undergone actual custody of nine months and twenty five days as on 22.1.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to one year and six months.

Except with modification in the quantum of sentence as indicated herein above, the revision petition is dismissed.

(Rajan Gupta)
Judge

January 22, 2016.
BB