

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3497-2015 (O & M)
Date of decision:02.03.2016

Baldev Singh ...Petitioner(s)

Versus

State of Punjab ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Gursimran Singh Bhatia, Advocate,
for the petitioner(s).

Ms. Rajni Gupta, Addl.A.G., Punjab.

Rajan Gupta, J. (oral)

Petitioner Baldev Singh had been convicted by the Judicial Magistrate Ist Class, Amritsar, under sections 304-A, 279 and 427 IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
304-A IPC	To undergo R.I. for two years and to pay fine of ₹1000/- and in default thereof to further undergo R.I. for two weeks.
279 IPC	To undergo R.I. for six months and to pay fine of ₹500/- and in default thereof to further undergo R.I. for one week.
427 IPC	To undergo R.I. for six months and to pay fine of ₹500/- and in default thereof to further undergo R.I. for one week.

The petitioner preferred appeal against the judgment of his conviction/sentence, which was partly allowed by the Sessions Judge, Amritsar, vide judgment dated 09.07.2015, holding the accused guilty under Sections 279 and 304-A IPC only and acquitted him of the charge framed under Section 427 IPC. It also modified the

sentence awarded to the petitioner under Section 304-A IPC from two years to one year only.

Feeling aggrieved against the judgments of both the courts below, the 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 04.06.2010 at around 01.00 p.m., the complainant alongwith his younger brother Surinder Singh were returning back to their village Gandiwind after meeting brother-in-law of Surinder Singh namely Davinder Singh. When they reached near the gate of FCI Godowns, Bharriariwal, one truck bearing No.RJ-13GA-2076 came from the front side and hit the motor cycle of his brother. Due to which he fell down and he died at the spot. The aforesaid truck was being in a very rash and negligent manner. The truck driver was apprehended by the people gathered at the spot, who disclosed his name as Baldev Singh son of Gurdeep Singh (petitioner herein). On this statement, FIR was registered by the police. After completion of

investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 304-A, 279 and 427 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 incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under sections 304-A, 279 and 427 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was partly allowed by the learned Sessions Judge, Amritsar.

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. In appeal, the Sessions Judge, Amritsar, Sessions Judge, Amritsar, vide judgment dated 09.07.2015, holding the accused guilty under Sections 279 and 304-A IPC only and acquitted him of the charge framed under Section 427 IPC. It also modified the sentence awarded to the petitioner under

Section 304-A IPC from two years to one year only. 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 first offender. 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 Ravinder Kumar Sharma, Superintendent, Central Jail, Amritsar, as per which the petitioner had undergone total custody of 07 months and 24 day as on 13.01.2016 including remissions.

Incident occurred 06 years ago in which the accused was found guilty of offence under Sections 304-A, 279 and 427 IPC. Stand of the State is that in case this court intends to maintain the conviction of the petitioner and reduce the quantum of sentence to that already undergone, State would have no reason to stand in the way of such orders.

Thus, keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to the period already undergone by him. However, fine imposed shall remain intact.

The amount of fine if not already paid shall be deposited within three months from the date of receipt of certified copy of this order. However, in case fine is not deposited within the stipulated

period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

02.03.2016
sukhpreet

(RAJAN GUPTA)
JUDGE