

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

Criminal Revision No.3585 of 2015 (O&M).
Decided on:-April 06, 2016.

Inderjit Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

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

Present:- Mr. C.S. Bagri, Advocate
for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab
for the respondent-State.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition impugning judgment dated 15.7.2015 passed by learned Additional Sessions Judge, Ludhiana, whereby his appeal against the judgment of conviction and order of sentence dated 13.2.2014 passed by learned Sub-Divisional Judicial Magistrate, Samrala in case bearing FIR No.240 dated 16.12.2007 under Sections 279, 337, 338, 427 and 304-A IPC registered at Police Station Samrala, was dismissed.

Learned trial Court vide judgment dated 13.2.2014 held the

petitioner guilty for offence under Sections 279, 304-A and 337 IPC and convicted him thereunder. However, the petitioner was acquitted of charge framed against him under Section 338 IPC. Vide separate order of even date, learned trial Court sentenced the petitioner as under:

1. To undergo rigorous imprisonment for a period of six months under Section 279 IPC;
2. To undergo rigorous imprisonment for a period of two years under Section 304-A IPC; and
3. To undergo rigorous imprisonment for a period of six months under Section 337 IPC.

The petitioner was further directed to compensate the family members of the deceased i.e. his widow or/and his son or/and daughter, as the case may be to the tune of Rs.50,000/- which was ordered to be given to the family members of the deceased as compensation in terms of Section 357(3) Cr.P.C. In default of payment of compensation, the petitioner was further required to undergo rigorous imprisonment for a period of three months. It was, however, ordered that all the sentences shall run concurrently and period of custody undergone by the accused during enquiry, investigation or trial of this case shall be set off from his substantive sentence.

Briefly stated, the FIR in question was registered against the petitioner on the statement suffered by complainant Sumit Singh Bhatia, who was owner of a factory in Ludhiana. In his statement, the complainant

stated that on 16.12.2007 he along with his uncle Colonel Rajinderpal Singh and Colonel Harbaksh Singh was coming from Ludhiana on their car bearing registration No.PB-10AG-5015 make Santro and were going to Chandigarh. The car was being driven by his uncle Colonel Harbaksh Singh. At about 9.30 a.m. when they reached a little ahead of Samrala towards Chandigarh, a bus of Chandigarh Transport Undertaking (CTU), Chandigarh Depot bearing registration No.CH-01G-5782 came from the opposite side at a high speed as well as in a rash and negligent manner and its driver struck the same from the wrong side with the car. Due to this accident, Colonel Harbaksh Singh suffered multiple injuries and succumbed to the same on the spot whereas Colonel Rajinderpal Singh and the complainant suffered injuries. The car was also badly damaged. Thereafter, name of the driver was came to be known as Inderjit Singh i.e. the petitioner.

Thereafter, investigation was conducted and Challan against the accused was prepared and presented in the Court. Copy of challan was supplied to the petitioner-accused free of cost as envisaged under Section 207 Cr.PC. The accused was charge-sheeted by the trial Court for the commission of offence under Sections 279, 337, 338 and 304-A IPC to which he did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined as many as 7 witnesses, namely, injured Colonel Rajinderpal Singh as PW1, complainant Sumit Singh Bhatia as PW2, HC Santokh Singh as PW3, SI

Kuljinder Singh as PW4, Dr. Tarakjot Singh as PW5, Nirmal Singh as PW6 and Sukhdev Singh as PW7. Thereafter, evidence of the prosecution was ordered to be closed and the statement of accused under Section 313 Cr.PC was recorded wherein he denied the allegations levelled against him and pleading false implication and innocence. However, he did not lead any evidence in his defence.

On the basis of evidence so adduced, the trial Court vide its judgment and order dated 13.2.2014 convicted and sentenced the petitioner in the manner as mentioned above.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the learned Additional Sessions Judge, Ludhiana, but the same was dismissed vide judgment dated 15.7.2015.

During the course of appeal before learned Additional Sessions Judge, learned counsel for the petitioner-accused had urged for granting him the benefit of probation under the provisions of the Probation of Offenders Act, 1958 (hereinafter mentioned as 'the Act'). However, the request was declined by giving some data. The plea of petitioner-accused that he is the only bread winner of his 7 family members including three daughters, wife and parents was not accepted in the routine manner. Learned appellate Court instead of giving a realistic approach to the plea as raised by the petitioner has cited example to the extent that one former President of our country had

died because of rash driving and the accident took place in the State of Punjab and, therefore, the state of affair of driving in the country needs to be improved. Thus, the appellate Court, while dismissing the appeal, maintained sentence of the petitioner.

Though initially, learned counsel for the petitioner sought to assail findings of the Courts below, but on September 24, 2015, when the present petition came up for hearing before this Court, learned counsel for the petitioner proposed not to challenge the conviction of the petitioner in view of concurrent findings of both the Courts below and submitted that there are arguable points so far as quantum of sentence is concerned. Accordingly, this Court issued notice of motion with regard to quantum of sentence only.

Learned counsel for the petitioner has submitted that the petitioner is a first time offender and he is the only bread winner of his family which contains 7 members including his 3 daughters, wife and old parents. Learned counsel further submitted that at the time of accident, the petitioner was working as a driver in CTU. During his long service tenure, he has not caused any such accident. He has prayed that he may be released on probation.

In support of his contention, learned counsel for the petitioner has relied upon judgment of this Court in ***Paramjit Singh Versus State of Haryana 2011(2) RCR (Criminal) 855*** to contend that when the accused

was not a previous convict and has not misused the concession of bail coupled with the fact that he has 3 daughters, wife and old parents to support, the petitioner deserves to be released on probation so that it may not affect his service career in view of Section 12 of the Act.

Reliance has also been placed on another judgment of this Court in ***Tejwinder Singh Versus State of Punjab 2009(5) RCR (Criminal) 526*** wherein the accused while driving a bus had caused death of a person by rash and negligent driving. He was convicted under Sections 279 and 304-A IPC, however, this Court released him on probation by holding that under Section 12 of the Act, conviction cannot be made the basis of his dismissal from service.

Learned counsel for the petitioner has further relied upon ***Ashok Kumar Versus State of Punjab 2008(2) Cri.CC 266*** wherein the accused was convicted under Sections 279, 337 and 304-A IPC by the trial Court and his prayer for benefit of probation was rejected. However, this Court has ordered him to be released on probation, as the accused had faced the agony of trial for about six years, he was not a habitual offender, had already undergone a sentence of 3 months and 17 days and was the sole bread earner of his family with five daughters to support.

In support of his contention, learned counsel for the petitioner has also relied upon ***Ram Pal Versus State of Punjab 2006(1) RCR (Criminal) 784*** wherein this Court extended the benefit of probation to an

accused under Section 304-A IPC in the circumstances, namely, (i) the accused remained on bail for a sufficient long period (ii) he was not a previous convict and did not indulge in any criminal activity during the post conviction period (iii) faced agony of trial for a considerable long period and (iv) was the sole bread earner for his family.

Learned counsel for the petitioner has further submitted that the petitioner is ready to pay the amount of compensation to the family of deceased as ordered by the trial Court.

I have heard learned counsel for the parties.

Admittedly, the petitioner has confined his arguments only qua the quantum of sentence and that too, to extend him the benefit of probation under the Act. As such, conviction of the petitioner is ordered to be maintained.

However, having heard learned counsel for the parties and after a careful consideration of the material placed on record, this Court is of the opinion that the petitioner has already suffered the ordeal of trial since 16.12.2007 i.e. the date when the FIR in question was registered against him. Apart from that, as per the custody certificate placed on record, he is in custody since 15.7.2015 and in this manner, he has already undergone sentence for more than 8 months, as against the awarded sentence of two years. The trial Court has awarded almost the maximum sentence of two years. There is no other case pending against him. Moreover, while the

petitioner remained on bail, he has not committed any other offence. He has three daughters and one son, who must be of marriageable age now. He is further required to maintain his wife and old parents.

In view of the aforesaid facts and circumstances, this Court finds that the petitioner deserves the benefit of probation under the Act. Accordingly, while taking into consideration the nature of offence, character and antecedents of the petitioner-accused, he is ordered to be released on probation of good conduct under Section 4 of the Act on the following conditions:

- (i) He shall execute a bond for good behaviour with two solvent sureties in a sum of Rs.25,000/- and the bond shall be executed before the trial Court within one month from today;
- (ii) The said bond shall be in force for a period of one year; and
- (iii) He shall be subject to the supervision of the Probation Officer and subject to the conditions laid down in the Act.

It is, however, made clear that the petitioner shall deposit the amount of compensation, as ordered by the trial Court vide order dated 13.2.2014, within a period of one month from today, failing which the petitioner shall not be entitled to the benefit of probation granted by this Court and the present petition shall be deemed to have been dismissed. The

trial Court shall disburse the amount of compensation to the legal heirs of deceased Harbaksh Singh subject to its satisfaction.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

April 06, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE