

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

Criminal Revision No.2515 of 2016
Date of Decision: 15.12.2016

Kuldeep Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

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

Present:- Mr. Munish Gulati, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. Gurinder Singh Hayer, Advocate
for the complainant.

HARI PAL VERMA J. (Oral)

Petitioner – Kuldeep Singh has filed the present revision petition against the judgment dated 9.5.2016 passed by learned Sessions Judge, Moga, whereby his appeal against the judgment of conviction and sentence dated 17.3.2014 passed by learned Additional Chief Judicial Magistrate, Moga has been dismissed.

Vide judgment dated 17.3.2014, learned Additional Chief Judicial Magistrate, Moga has held the petitioner guilty for offence under Sections 279, 304-A, IPC and vide separate order of even date, sentenced him as under:-

Convict	Under Section	Rigorous Imprisonment	Fine	In default
Kuldeep	279 IPC	Three months		
	304-A IPC	1½ years	Rs.5,000/-	30 days

Both the sentences were ordered to run concurrently.

Aggrieved from the aforesaid judgment of conviction and order of sentence dated 17.3.2014, the petitioner preferred appeal before learned Sessions Judge, Moga, however, the same was dismissed by the appellate Court vide judgment dated 9.5.2016.

It is in these circumstances that the petitioner has filed the present revision petition, impugning his conviction and sentence ordered by learned trial Court and affirmed by learned appellate Court.

On 10.8.2016 while issuing notice of motion, following order was passed by this Court:-

“At the very outset, learned counsel states that he does not wish to press this revision on merits but in respect of quantum of sentence his case is covered by the judgment of the Supreme Court in the matter of **State of Punjab vs. Saurabh Bakshi, arising out of SLP (CRL) No.5825 of 2014, decided on 30.03.2015.**

Notice of motion for 23.09.2016.”

Learned counsel for the petitioner states that during the pendency of present revision petition, the parties have entered into a compromise and the brother of the petitioner has agreed to compensate the wife of the victim/deceased namely Jaswinder Kaur by paying an amount of Rs.50,000/-. Accordingly, by way of demand draft No.008421 dated 12.12.2016 issued by Vijaya Bank Branch Moga, the complainant/victim

has been compensated. He submits that as against the awarded maximum sentence of 1½ years, the petitioner is in actual custody for 5 months and 16 days (as on 7.12.2016). The petitioner has also remained on parole for 1 month and 12 days. Since the petitioner has suffered the ordeal of criminal trial for the last more than five years, since the date of registration of FIR, it should be a sufficient mitigating circumstance to treat him leniently. Therefore, the very prayer of the petitioner is to consider this revision petition on quantum of sentence. The petitioner would be satisfied if the sentenced awarded to him is reduced to the period already undergone by him. He has produced before this Court compromise deed dated 12.12.2016 which is taken on record.

Learned counsel appearing on behalf of the complainant has admitted the factum of compromise entered between the parties on 12.12.2016. He states that the complainant has no objection if the remaining sentence of the petitioner-accused is reduced to the period already undergone by him as the complainant/victim has suitably been compensated.

On the other hand, learned State counsel has filed the custody certificate of the petitioner and does not dispute the custody of the petitioner, however, he has opposed the plea of taking a liberal view, as raised by learned counsel for the petitioner because such like accidents are on high rise. Therefore, in such like offences, severe punishment is necessary.

I have heard learned counsel for the parties.

The Hon'ble Supreme Court in **State of Punjab vs. Saurabh Bakshi 2015(2) RCR(Criminal) 495** has held as under:

“The protagonists, as we perceive, have lost all respect for law. A man with the means has, in possibility, graduated himself to harbour the idea that he can escape from the substantive sentence by payment of compensation. Neither the law nor the court that implements the law should ever get oblivious of the fact that in such accidents precious lives are lost or the victims who survive are crippled for life which, in a way, worse than death. Such developing of notions is a dangerous phenomenon in an orderly society. Young age cannot be a plea to be accepted in all circumstances. Life to the poor or the impecunious is as worth living for as it is to the rich and the luxuriously temperamental. Needless to say, the principle of sentencing recognizes the corrective measures but there are occasions when the deterrence is an imperative necessity depending upon the facts of the case. In our opinion, it is a fit case where we are constrained to say that the High Court has been swayed away by the passion of mercy in applying the principle that payment of compensation is a factor for reduction of sentence to 24 days. It is absolutely in the realm of misplaced sympathy. It is, in a way mockery of justice. Because justice is “the crowning glory”, “the sovereign mistress” and “queen of virtue” as Cicero had said. Such a crime blights not only the lives of the victims but of many others around them. It ultimately shatters the faith of the public in judicial system. In our view, the sentence of one year as imposed by the trial Magistrate which has been affirmed by the appellate court should be reduced to six months.”

In view of the compromise effected between the parties, more particularly when payment of compensation for an amount of Rs.50,000/-

has been accepted by the wife of the deceased, this Court is of the view that no useful purpose will be served by keeping the petitioner behind bars. The petitioner has already faced ordeal of criminal trial for approximately five years and he has actually undergone the imprisonment for about six months. Therefore, considering the fact that the petitioner is first time offender and has compensated the widow of deceased, ends of justice will be met if the conviction of the petitioner is maintained, however, the sentence awarded to him is reduced to the period of sentence already undergone.

Accordingly, the present revision petition is dismissed. However, the sentence awarded to the petitioner is reduced to the period already undergone by him.

The petitioner be released forthwith if not required in any other case subject to payment of fine, if already not paid.

December 15, 2016
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No