

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

CRR No.828 of 2014.
Decided on:-02.06.2016.

Parvinder Singh.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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:- Mr. Ashok Kumar Singla, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab
for the respondent-State.

Mr. D.S. Gurna, Advocate
for respondents No.2 to 7.

HARI PAL VERMA, J.

The petitioner has filed present revision petition against the judgment dated 20.2.2014 passed by learned Additional Sessions Judge, Patiala, whereby his appeal preferred against the judgment of conviction and order of sentence dated 18.7.2013 passed by learned Judicial Magistrate 1st Class, Rajpura, was partly allowed with modification in order of sentence.

Vide judgment dated 18.7.2013, learned Magistrate held the petitioner guilty and convicted him for offence punishable under Sections

279 and 304-A IPC and vide separate order of even date, sentenced him as under:

<u>Under Section</u>	<u>Sentence</u>
279 IPC	Simple imprisonment for six months.
304-A IPC	Simple imprisonment for two years with fine of ₹ 2,500/- and in default thereof, to further undergo simple imprisonment for one month.

However, both the substantive sentences were ordered to run concurrently.

Briefly stated, case of the prosecution, as referred in FIR No.114 dated 8.6.2005 under Sections 279 and 304-A IPC registered at Police Station Rajpura, is that on 8.6.2005, when HC Arur Singh along with other police officials was on patrol duty and he was present at Adda Shambhu, complainant Swaran Singh got recorded his statement. As per his statement, he is resident of village Chamaru and is working in Gold Mohar Food & Feed Limited, Bapror. On the previous day i.e. 7.6.2015, the complainant was going from factory to Rajpura on a motorcycle. At about 5.00 p.m., he reached G.T. Road in the area of village Alimajra. Then from Ambala side, a gypsy overtook his motorcycle at a very high speed. It struck into a bicycle which was being driven by Chhedi Lal son of Panchhia Lal, a worker of the factory. Due to the impact, Chhedi Lal fell on the road at long distance from that place. His bicycle also fell on right side of road.

Chhedi Lal died at the spot due to said accident. Later on, the complainant came to know registration number of said gypsy as PB-11C-7013 and name of its driver was noticed as Parvinder Singh son of Shiam Singh, resident of Ahmedgarh, District Muzaffarnagar (U.P.). The driver of gypsy stopped at the spot. At the time of accident, another worker of the factory, namely, Ram Iqbal was also going on a bicycle. The complainant was going to inform the legal heirs of Chhedi Lal and owner of their factory. Said occurrence took place due to rash and negligent driving of Parvinder Singh.

Statements of the witnesses were recorded and after completion of investigation, report under Section 173 Cr.PC was prepared and submitted in the Court.

On presentation of report, copies of documents relied upon by the prosecution were supplied to the accused free of cost as envisaged under Section 207 Cr.PC. Thereafter, the accused was charge-sheeted by the trial Court under Sections 279 and 304-A IPC to which he did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined Dr. Manjit Singh as PW1, who conducted post-mortem on the dead body of Chhedi Lal and proved copy of post-mortem report as Ex.PW1/A.

Complainant Swaran Singh appeared in the witness box as PW2 and deposed that on 7.6.2005, he was going from factory to Rajpura on a motorcycle. At about 5.00 p.m., he reached at G.T. Road in the area of

village Alimajra and then from Ambala side, a gypsy of white colour bearing registration No.PB-11C-7013 overtook his motorcycle in a high speed. It struck into the bicycle which was being driven by Chhedi Lal, a worker of the factory causing his death.

PW3 Ram Gopal who was also going on his bicycle ahead to the deceased has deposed in the same terms as PW2.

Investigating officer Arur Singh (PW4) has deposed about the investigation conducted by him in the present case. He also proved certain documents on record including FIR Ex.PW4/B.

PW5 HC Malook Singh also supported the statement of investigating officer (PW4).

Devinder Singh mechanic has appeared in the witness box as PW6 and proved his test report Ex.PW6/A regarding the offending gypsy.

Thereafter, the entire incriminating material was put to the petitioner. He denied the entire version of the prosecution and pleaded his innocence. He took the defence that he has falsely been implicated by the complainant just to get compensation.

On the basis of evidence so adduced, the trial Court held that the accident was caused by the petitioner-accused and he was duly identified by the eye-witness and the complainant. The trial Court also held that the deceased was going on his bicycle to his home and the accident was caused by the accused hitting him from his back. Thus, the trial Court observed that

the accident was caused by rash and negligent driving of the petitioner.

The appeal filed by the petitioner met with the same result and his conviction was also upheld by learned Additional Sessions Judge, Patiala vide judgment dated 20.2.2014. However, sentence of the petitioner under Section 304 IPC was reduced to 1½ years.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

On March 14, 2014, when the present revision petition came up for hearing, learned counsel for the petitioner had restricted his prayer seeking indulgence of this Court as regard reduction of sentence. Learned counsel sought time to complete instructions as regards the quantum of money that the petitioner would be willing to pay so as to compensate the family of deceased Chhedi Lal.

On April 22, 2014 this Court was informed by learned counsel for the petitioner that the petitioner has already paid Rs.5,86,000/- to the legal heirs of deceased Chhedi Lal under the MACT claim as the offending vehicle was not insured. He had further shown his inclination to pay another amount of Rs.50,000/- to compensate family of the victim.

Vide order dated 12.5.2015, on the joint request of the parties, the matter was referred to the Mediation and Conciliation Centre of this Court and the parties were directed to appear there on 25.5.2015.

Accordingly, the parties appeared before the Mediation and

Conciliation Centre. The legal heirs of deceased Chhedi Lal appointed Kewal Shah son of Panchi Shah on their behalf for which a special power of attorney was executed in favour of Kewal Shah. As such, they were represented by Kewal Shah, who is younger brother of deceased Chhedi Lal.

It has been reported by the Mediation and Conciliation Centre of this Court that the parties have settled their dispute by way of settlement. As per terms and conditions of the settlement, it was agreed that the petitioner will pay Rs.55,000/- to the legal heirs of deceased, who are being represented through Kewal Shah. Para No.1 of the terms and conditions of settlement arrived between the parties before the Mediation and Conciliation Centre of this Court reads as under:

“1. The parties have agreed and decided that petitioner Parvinder Singh will pay Rs.55,000/- (Rupees Fifty Five Thousand only) by way of Demand Draft to private respondents namely Devki Devi widow of Chedi Lal, her daughters Laxmi Kumari, Pooja Kumari and Geeta Kumari as well as parents of the deceased Chedi Lal namely Giani Devi (mother) and Panchimsah (father). Said respondents are being represented through younger brother namely Kewal Shah of deceased Chedi Lal, who has duly been authorised by them and has submitted on record Special Power of Attorneys dated 08.08.2015 to this effect. The Demand Draft prepared in the name of Devki Devi (respondent No.2) shall be handed over to the said Kewal Shah on the date fixed before the Hon'ble High Court. Private respondents shall have no objection if the sentence of the

petitioner Parvinder Singh is reduced to the period already undergone. However, this settlement will have no effect upon the rights of the private respondents to pursue their FAO No.1808 of 2011 pending in this Hon'ble Court for the enhancement of the compensation.”

Perusal of order dated 22.4.2016 of this Court reveals that in compliance of the compromise arrived at before the Mediation and Conciliation Centre of this Court, the petitioner has paid Rs.15,000/- to learned counsel for respondents No.2 to 7 with an assurance that he will pay the remaining amount within one month.

Learned counsel for the petitioner has stated that the petitioner has also paid the remaining amount of Rs.40,000/- to Kewal Shah, the special power of attorney of respondents No.2 to 7 in the Court today in the presence of learned counsel for respondents No.2 to 7. The receipt of said amount has also been conceded by learned counsel for respondents No.2 to 7.

It is not in dispute that as against the awarded sentence of 1½ years, the petitioner has remained in custody for more than six months and there is no other case against him. He has been facing the agony of criminal proceedings since 8.6.2005 i.e. the date when the FIR in question was registered against him. He has not only satisfied the Award passed by the Motor Accidents Claims Tribunal, rather, has paid another amount of Rs.55,000/- to the legal heirs of deceased Chhedi Lal as per the terms and

conditions of settlement arrived at between the parties before the Mediation and Conciliation Centre of this Court.

Therefore, keeping in view the above facts and circumstances coupled with restricted arguments of learned counsel for the petitioner qua the quantum of sentence only, this Court feels that the ends of justice would be met in case the conviction of the petitioner-accused is upheld but the sentence awarded to him is reduced to the period already undergone by him.

Ordered accordingly. However, it is made clear that the sentence qua fine imposed upon the petitioner shall remain intact.

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

June 02, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE