

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

CRR No.4701 of 2015 (O&M)

Decided on:-May 09, 2016.

Palwinder Singh.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

***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. Jagdish Singh Mahal, Advocate  
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. Gagandeep Singh, Advocate  
for respondent No.2.

**HARI PAL VERMA, J.**

Petitioner Palwinder Singh son of Waryam Singh, resident of village Talwandi Raja Dinanath, Police Station Kalanaur, District Gurdaspur has filed the present revision petition challenging the judgment dated 14.9.2015 passed by learned Additional Sessions Judge, Gurdaspur, whereby his appeal filed against the judgment of conviction and order of sentence dated 20.2.2013 passed by learned Chief Judicial Magistrate, Gurdaspur, in case FIR No.65 dated 19.6.2006 under Sections 279 and 304-A IPC registered at Police Station Kalanaur, was dismissed.

Learned Magistrate vide judgment dated 20.2.2013 convicted the petitioner 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              | Rigorous imprisonment for a period of six months with fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days. |
| 304-A IPC            | Rigorous imprisonment for a period of two years with fine of Rs.3000/- and in default of payment of fine, to further undergo rigorous imprisonment for two months.   |

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

Briefly stated, the aforesaid FIR was registered at the behest of complainant Som Singh on the allegation that on 19.6.2006 the complainant along with his mother Kartar Kaur and cousin Tarlok Singh and 4-5 other ladies of the village were going to village Manepur to attend cremation. While they were walking, the offending motorcycle being driven by the petitioner came from behind in a rash and negligent manner. The motorcycle struck against Kartar Kaur. As a result thereof, she received head injury and later died in a hospital.

Statements of witnesses were recorded by the police. Site plan was prepared and post-mortem of the dead body of Kartar Kaur was got

conducted. After completion of investigation, challan was presented in the Court. Copy of challan was supplied to the petitioner-accused free of costs as envisaged under Section 207 Cr.PC. Thereafter, the accused was charge-sheeted by the trial Court for the commission of offence 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 had examined as many as 5 witnesses. Thereafter, the statement of accused under Section 313 Cr.PC was recorded wherein he denied the allegations levelled against him. However, he did not examine any witness in his defence.

Considering the evidence so adduced, the trial Court vide its judgment and order dated 20.2.2013 had 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 Court of Session, but the same was also dismissed by learned Additional Sessions Judge, Gurdaspur vide judgment dated 14.9.2015.

It is in these circumstances that the petitioner has filed the present revision petition challenging the verdicts of the courts below.

Learned counsel for the petitioner has contended that after the appeal filed by the petitioner having been dismissed on 14.9.2015, the parties have entered into a compromise. As per the terms of compromise dated 19.10.2015, the complainant has received full and final compensation

from the petitioner and nothing is due towards him. It has further been mentioned in the compromise that the complainant will have no objection if the FIR in question and all consequential proceedings arising out of the said FIR are quashed by this Court.

During the course of arguments, learned counsel for the petitioner has not challenged the present revision petition on merits and restricted his arguments qua the quantum of sentence only. He has further contended that the offending motorcycle was not insured and the petitioner has already satisfied the award given by the Motor Accidents Claims Tribunal, Gurdaspur and in furtherance thereof, the execution filed by the complainant has been withdrawn.

Learned counsel for the petitioner has further contended that the petitioner is a first time offender and is not involved in any other case. As against the awarded sentence of two years, the petitioner has already undergone imprisonment for three months. He has stated that the petitioner has been suffering the agony of criminal proceedings since 19.6.2006, i.e. the date when the FIR in question was registered against him and prayed that in these circumstances, the sentence of the petitioner be reduced to the period already undergone by him.

On the other hand, learned State counsel has contended that the offence committed by the petitioner is against the society and, as such, he is not entitled for the relief prayed during the arguments.

I have heard learned counsel for the parties.

This Court in ***CRR No.429 of 2015*** titled as ***Surinder Singh Versus State of Punjab*** decided on 5.8.2015, while placing reliance on the judgment of Hon'ble Supreme Court in the case of ***State of M.P. Versus Mehtaab 2015(1) RCR (Criminal) 1008*** has reduced the sentence to the period already undergone for the similar offences. The Apex Court in ***Mehtaab's case (supra)*** has held that when the accused was found guilty of causing death by negligence, the High Court of Madhya Pradesh was not justified in reducing sentence of imprisonment to the period of 10 days without awarding any compensation to the legal heirs of the deceased. As such, the Apex Court while modifying the order passed by the High Court had held that the order of the High Court can be upheld only with the modification that the accused will pay compensation to the heirs of the deceased. This judgment was also followed by this Court in ***Criminal Revision No.1761 of 2015*** titled as ***Kashmir Singh Versus State of Punjab*** decided on December 07, 2015.

Therefore, considering the fact that the petitioner has satisfied the award passed by concerned Motor Accidents Claims Tribunal and coupled with the fact that the petitioner is suffering the agony of trial since 19.6.2006 when the FIR in question was registered, and further as against the total sentence of two years, he has suffered incarceration for a period of three months and there is no other criminal case pending against the

petitioner, 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, however, with no change in the sentence of fine.

Accordingly, the conviction of the petitioner-accused is upheld but the sentence is reduced to the period already undergone by him.

However, it is made clear that in case the petitioner has not paid the fine, he shall pay the same within one month from today failing which he would be liable to undergo the sentence as awarded by the trial Court.

With the aforesaid modification, the present revision petition stands dismissed.

**May 09, 2016**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**