

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

Sr. No.: 219

**Criminal Revision No.4746 of 2015 (O & M)**

**Date of Decision:** *April 23, 2016*

**Balvinder Singh**

..... PETITIONER

*VERSUS*

**State of Haryana & another**

..... RESPONDENTS

. . .

**CORAM:**    **HON'BLE MR. JUSTICE JASPAL SINGH**

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

. . .

**PRESENT:** -    Mr. Sandeep Lather, Advocate, for the petitioner.

Mr. S.S. Pannu, Deputy Advocate General, Haryana, for  
respondent No.1 – State.

Mr. Mahesh Saxena, Advocate, for respondent No.2.

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**Jaspal Singh, J**

Crl. Misc. No.39992 of 2015

Allowed as prayed for.

Crl. Revision No.4746 of 2015

1.                    The instant revision petition has been preferred by Balvinder Singh against judgment dated November 16, 2015 passed by the Sessions Judge, Palwal, whereby judgment of conviction and order of sentence dated May 27, 2015 passed in case FIR No.373 dated October 1, 2010, under

Sections 279, 304-A IPC, registered at Police Station, City, Palwal, has been upheld. The petitioner was convicted and sentenced by the trial court to undergo simple imprisonment for a period of three months under Section 279 IPC; and further, to undergo rigorous imprisonment for a period of two years under Section 304-A IPC.

2. Briefly stated, on October 1, 2010, instant FIR was registered on the basis of statement of Rohit (complainant) son of Arun Sachdeva, resident of Palwal, alleging that his father had been running a clinic in the name & style of Sachdeva Clinic at village Sallagarh. On September 30, 2010, he alongwith his father was coming towards his house from market on motor cycle bearing registration No.HR-30C-6673, being driven by his father. At about 11:00 PM, when they reached near Agra Chowk, he got down from the motor cycle while his father was crossing the road. Meanwhile, a truck bearing registration No.HR-55F-8575 came from Agra side, being driven in a rash and negligent manner, and hit the motor cycle, due to which, his father fell down on the road and sustained injuries on his head. He was taken to Government Hospital for treatment but he succumbed to injuries on the way. He (complainant) thereafter alleged that driver fled away after leaving the truck at the spot and conductor of the truck disclosed the name of driver as Lavpreet Singh.

3. After completion of investigation, challan against the accused was presented. He was supplied the copies of police report and other documents appended therewith as required under Section 207 Cr.P.C., free of costs.

4. Finding a prima facie case against the accused, he was charge-sheeted for offences under Sections 279, 304-A IPC, to which, he pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution examined as many as nine witnesses, however, its evidence was closed by order of the court on its failure to conclude the same despite availing last opportunity.

6. Incriminating circumstances appearing in the prosecution evidence were put to accused in his statement under Section 313 Cr.P.C. who denied the same, pleaded innocence and complained of false implication. One DW was examined in defence.

7. After hearing learned counsel for the parties and having gone through the material available on record, accused Surender was held guilty under Sections 279 & 304-A IPC. Accordingly, convicted & sentenced, as detailed above.

8. Appeal preferred by Balvinder Singh also failed before the lower appellate court. In this backdrop of facts, the instant revision petition has been preferred by the accused – petitioner.

9. At the very outset of arguments, learned counsel for the petitioner submits that he does not press the petition qua conviction and prayed that the petitioner be heard only qua quantum of sentence and lenient view be taken. This Court has also scrutinized the impugned judgment(s) as well as the relevant documents/ evidence available on record and is of the considered view that there is no scope for any interference in impugned judgment(s) as far as the conviction of the petitioner under the aforesaid provisions of IPC is concerned. As such, the conviction of the petitioner is upheld.

10. As far as quantum of sentence is concerned, learned counsel for the petitioner has submitted that the petitioner has asserted himself to be first offender. No other case of similar nature is either pending or disposed of against the petitioner. He is the only bread winner in the family. He never misused the concession of bail during trial. He has already undergone a period of approximately six months, out of the substantive sentence of two years. Accordingly, learned counsel for the petitioner prays that sentence imposed upon the petitioner be reduced to the period already undergone.

11. This Court has given an anxious thought to the submissions made by learned counsel and has gone through the record available on file.

12. As per the custody certificate dated March 26, 2016, by now, the petitioner has already undergone approximately 6 months out of total sentence of two years.

13. In similar circumstances, the Hon'ble Apex Court in case Harjit Singh v. State of Haryana, (2002) 10 SCC 695 had reduced the sentence of 7 years under Section 25 of the Arms act as already undergone (more than 5 years). To the same effect is the judgment in case Kirpal Singh v. State of Punjab, 2009(1) AICLR 243, whereby this Court had reduced the sentence of petitioner to already undergone, taking into consideration the fact that petitioner has three children – there is no one to look after his family – petitioner has already undergone sentence of more than 5 months out of total sentence of one year. In cases Jagdeep Singh @ Neetu v. State of Punjab, 2013(2) Law Herald 1849; Surjit Singh v. State of Punjab, 2003(2) RCR (Criminal) 429, Sudhir v. State of Haryana, 2001(2) RCR (Criminal) 336; and Chhotu Ram v. State of Haryana, 2013(4) RCR (Criminal) 630, similar view has been adopted.

14. Taking into consideration the totality of facts and circumstances, though, conviction of the petitioner is upheld but the sentence imposed upon him under Sections 279 & 304-A IPC is reduced to the period already undergone by him. The petitioner is ordered to be released forthwith.

15. With the above modification in the sentence, the revision petition is dismissed.

Crl. Misc. No.39993 of 2015

In view of the aforesaid judgment rendered in the main case itself, application under Section 397 Cr.P.C. for suspension of sentence has rendered infructuous and is disposed of as such.

**April 23, 2016**  
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**(Jaspal Singh)**  
**Judge**