

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.4749 of 2015 (O&M)****Date of Decision: February 01, 2016**

Gurbhej Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Satbir Gill, Advocate
for the petitioner.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Gurbhej Singh against State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 19.02.2015 passed by learned Addl. Chief Judicial Magistrate, Pathankot, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹100/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of thirty days under Sections 338 and 427 IPC each and further to undergo rigorous imprisonment for a period of two years and to pay fine of ₹300/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of thirty days under

Section 304-A IPC and further to undergo rigorous imprisonment for a period of six months and to pay fine of ₹100/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of thirty days under Section 279 IPC and also challenging the judgment dated 18.09.2015 passed by learned Sessions Judge, Pathankot, vide which appeal filed by petitioner was dismissed.

At the time of preliminary hearing, the learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Notice of motion was issued qua quantum of sentence only.

Learned State counsel appeared and contested the revision petition and filed the custody certificate of the petitioner.

The brief facts of the prosecution case as mentioned in the impugned judgment dated 18.09.2015 passed by learned Sessions Judge, Pathankot, are as under:-

“On 21.04.2012, Anoop Tirki (deceased) along with Pawan Kumar were riding on a motor-cycle bearing No.PB-35-N-1225. Anoop Tirki was driving it and to drop his friend Pawan Kumar at Bus Stand. Nirajan (complainant) was also going to make the payment of fuel to petrol pump regarding their firm. When their motor-cycle was 100 meters ahead of Dalla Petrol Pump, a truck bearing No.PB-02-AV-8763 loaded with crusher and driven by accused Gurbhej Singh came from the opposite side. Accused was driving it on a very high speed and without blowing horn he hit the motor-cycle from behind due to which both the bikers fell down on the road along with their bike. They were also dragged by the truck. Anoop Tirki was crushed under the tyre of the truck. He died at the spot. Pawan Kumar received serious injuries. Motor-cycle was also damaged. Someone called

Ambulance No.108. Pawan Kumar was shifted to Chouhan Hospital Kotli. Accused fled away after leaving the truck at the spot. After leaving Sunny Walia at the spot by the side of dead body, Niranjana went to inform the police. SI Subash Chander met him at Adda Kiri to whom he narrated the whole of the aforesaid occurrence. His statement was recorded on which basis FIR under section 279, 304-A, 337, 338 and 427 IPC was registered. SI Subash Chander went to the place of accident and prepared its site plan. Photographs of the place of accident were also got clicked. Later photographs were taken into possession. Both the vehicles were also taken into possession. Mechanical test of both the vehicles was also done. After postmortem examination dead body was handed over to the relatives. Accused was arrested. Documents of the vehicles were taken into possession and after completion of entire investigation the accused was challaned to face trial under Section 279, 304-A, 337, 338 and 427 IPC."

At the time of arguments, learned counsel for the petitioner contended that the accused-petitioner is first offender, poor person and only bread earner of the family. Learned counsel for the petitioner further contended that the petitioner is suffering from the criminal proceedings since 2012.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and fact that petitioner is first offender, poor person and only bread earner of the family and further in view of the fact the accused-petitioner is suffering from long protracted criminal proceedings for the last about four years and has already undergone 4 months and 26 days including remission out of the total sentence, the sentence of the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of one year each under Sections 304-A,

338 and 427 IPC. However, the other sentence, sentence of fine and default sentence shall remain the same. All the sentences are ordered to run concurrently.

With the above-said modification in the sentence, the present revision petition stands dismissed.

February 01, 2016
Vgulati

(INDERJIT SINGH)
JUDGE