

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2951-2012

Date of Decision: 30.10.2017

BIJENDER SINGH

...Petitioner

V/S

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. ARVIND SINGH SANGWAN

Present: Mr. H.S. Sahu, Advocate
for the petitioner.

Mr. Sandeep Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral):

Challenge in this revision petition is to the judgment dated 03.01.2008 passed by the trial Court convicting the petitioner under Section 304-A, 279 read with section 337 of the Indian Penal Code (hereinafter referred to as 'IPC') and sentencing him to undergo rigorous imprisonment for a period of two years with a fine of ₹ 500/- under Section 304-A of IPC, rigorous imprisonment of six months and a fine of ₹ 500/- under Section 279 of IPC and rigorous imprisonment of six months and a fine of ₹ 500/- under Section 337 of IPC. In default of payment of fine, the petitioner was directed to undergo rigorous imprisonment for another three months. The revision filed by the petitioner was

also dismissed by the lower Appellate Court vide judgment dated 26.07.2012.

The brief facts of the case are that on 18.06.1998, an FIR was registered against the petitioner that while driving his truck bearing registration No.HR-46-0429, the petitioner caused an accident with a Jeep bearing registration No. HR-12-P/0192, and later struck with a scooter which was driven by a young person with a pillion rider. Due to impact, the occupants on the scooter fell down and Sunil Kumar died.

The counsel for the petitioner submitted that Bablu (PW-6), who was also in the Jeep, did not support the prosecution version and despite that, petitioner has been convicted on the statements of Jagmal Singh (PW-9) and complainant-Krishan Kumar (PW-5). It is further submitted that even in the statement of Krishan Kumar (PW-5), he has made improvement in his examination-in-chief, from the revision given to police. The Investigating Officer of the case was also not examined by the prosecution. It is also submitted that on account of non-examination of the Investigating officer, the relevant documents i.e. site plan and the recovery memos have not been proved by the prosecution and on account of non-examination of the investigating Officer, an important right of defence of petitioner-accused to prove that he was not rash and negligent in driving, has been vitiated. It is further submitted that the petitioner is facing the trial since 1998 and he is not involved in any such or similar FIR. The petitioner never misused the concession of bail, during the pendency of the trial as well as the appeal.

On the other hand, learned State counsel has submitted that it has been proved from the statements of Krishan Kumar (PW-5) as well as eye-witness Jagmal Singh (PW-9) that the petitioner was rash and negligent in driving and had caused the accident, which has resulted into the death of Sunil Kumar.

At this stage, learned counsel for the petitioner rely upon the judgment passed by this Court in **Shamsher Singh Vs. State of Haryana 2017 (3) R.C.R. (Criminal) 306.** where in this Court, in similar circumstance has reduced the sentence of a convict under Section 304-A to three months twenty one days actually undergone by him and fine was increased to be paid to victim's family as compensation and submitted that the petitioner has already undergone two months and twenty seven days of actual sentence and three months and eighteen days of total sentence including the remission as per custody certificate dated 02.07.2017. A perusal of the custody certificate shows that the petitioner is not involved in any other case except the present case.

In view of the submissions made above and keeping in view the fact that except the present FIR, there is no other case registered or pending against the petitioner and also considering the fact that the FIR pertains to the Year 1998 and since then, the petitioner has undergone a protracted trial for about 19 years and even after his conviction, he is suffering during the pendency of first appeal as well as the present petition since 2012, this Court is of considered view that the ends of justice would be met if the sentence of the petitioner is reduced to a period already undergone by him i.e. two months and eighteen days.

Thus, the conviction of the petitioner-accused is upheld, however, his sentence is reduced to the period already undergone by him. The fine imposed upon the accused-petitioner is increased to ₹ 40,000/-, which shall be taken as compensation and disbursed to the legal heirs of deceased Sunil Kumar. The amount of ₹ 40,000/- shall be deposited in the trial Court within a period of three months from today and in case, the petitioner fails to deposit the said amount, the present revision petition shall be deemed to be dismissed. On depositing of the aforesaid amount, the trial Court shall summon the legal heirs of the deceased-Sunil

Kumar and disbursed the said amount to them forthwith.

Accordingly, this revision petition stands partly allowed.

(ARVIND SINGH SANGWAN)
JUDGE

30.10.2017
Nisha

Whether speaking/reasoned: Yes

Whether Reportable: No