

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

CRR No.2707 of 2015 (O&M)
Decided on:-20.09.2017

Jagtar Singh

.....Petitioner.

Versus

State of Haryana

.....Respondent.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. P.S. Sullar, Advocate
 for the petitioner.

Mr. Sandeep Vashisht, DAG, Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner has filed the present revision petition against the judgment dated 05.06.2015 passed by learned Additional Sessions Judge, Kaithal, whereby his appeal against the judgment of conviction dated 04.06.2013 and order of sentence dated 06.06.2013 passed by learned Sub Divisional Judicial Magistrate, Guhla, was dismissed.

Briefly stated, FIR No.67 dated 21.05.2009 under Sections 279, 337 and 304-A IPC was registered against the petitioner-accused at Police Station Siwan with the allegations that complainant Sunil Kumar got recorded his statement to the effect that on 21.05.2009 at 9.45 a.m. when he was going to Village Kangthali from Village Bhuna, on his motorcycle No.HR-08F-5749, one Sunheri Devi took lift from him on his motorcycle. When they reached near the Power House, Bhuna, a four wheeler bearing registration

No.HR-46-A-3524, which was being driven in a very rash and negligent manner, came from the side of Cheeka and hit the motorcycle of the complainant from backside, due to which, they both fell down on the road. The driver of the four wheeler with the help of the complainant put Sunheri Devi in his four wheeler and went away saying that he is taking her to Kaithal for treatment, but he left the complainant at the spot. However, instead of taking Sunheri Devi to Kaithal for treatment, he left her at her house and ran away. Her family members took her to Vishal Nursing Home, Cheeka, from where, she was referred to Patiala. While the family members of Sunheri Devi were taking her to Patiala, she succumbed to her injuries. It has been further averred that the petitioner has also sustained injuries on his right knee and right hip.

On the basis of the aforesaid statement of the complainant, FIR was registered against the petitioner-accused and the investigation was conducted by the police. The vehicle was taken in police possession. The petitioner-accused was arrested and produced in the Court. Statements of witnesses were recorded and after completion of investigation, challan was filed in the Court.

The copy of challan, as envisaged under Section 207 Cr.PC, was supplied to the petitioner-accused. On finding a *prima facie* case against the petitioner, he was charge-sheeted under Sections 279, 337 and 304-A IPC, to which, he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 04.06.2013 convicted the petitioner for the commission of offence punishable under Sections 279, 337 and 304-A IPC

and vide separate order dated 06.06.2013, learned trial Court sentenced the petitioner-accused as under:-

“The convict Jagtar Singh is sentenced to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.500/- for the commission of offence punishable under Section 279 of IPC. In default of payment of fine, convict shall further undergo simple imprisonment for a period of fifteen days.

The convict Jagtar Singh is sentenced to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.500/- for the commission of offence punishable under Section 337 of IPC. In default of payment of fine, convict shall further undergo simple imprisonment for a period of fifteen days.

The convict Jagtar Singh is sentenced to undergo rigorous imprisonment for a period of two months and to pay a fine of Rs.1,000/- for the commission of offence punishable under Section 304-A of IPC. In default of payment of fine, convict shall further undergo simple imprisonment for a period of 30 days.”

It was, however, ordered that all the sentences of imprisonment shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 05.06.2015 passed by learned Additional Sessions Judge, Kaithal, the appeal of the petitioner was dismissed.

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

At the outset, learned counsel for the petitioner has not challenged conviction of the petitioner and has confined his arguments *qua* the quantum of sentence only. He has contended that as against the awarded

sentence for a maximum period of two years, the petitioner has already undergone more than 7 months including remission. Moreover, the petitioner is a first time offender and there is no other criminal case pending against him. He is a poor labourer and is the sole bread earner of his family. He has been suffering the agony of criminal proceedings since 21.5.2009 i.e. the date when the FIR in question was registered against him. Learned counsel has further submitted that the Motor Accident Claims Tribunal has also awarded compensation for an amount of Rs.1,69,800/- along with interest in favour of the claimant-LRs of the deceased, as the licence of the petitioner was not renewed and the insurance company has initiated recovery proceedings against the owner and the driver of the offending vehicle i.e. the petitioner. Thus, he has prayed that the sentence of the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel has not disputed the custody of the petitioner and the fact that there is no other case against him, but has opposed the plea of taking liberal view, as pleaded by learned counsel for the petitioner.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 279, 337 and 304-A IPC. The appellate Court has also rightly dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional

jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction on merits and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, admittedly, against the awarded sentence of two years, the petitioner has already undergone imprisonment for 7 months including remission. He is first time offender and there is no other case pending against him. He has been facing the agony of criminal proceedings since 21.05.2009 i.e. the date when the FIR in question was registered against him. Moreover, the Motor Accident Claims Tribunal has also awarded compensation for an amount of Rs.1,69,800/- along with interest in favour of the claimant-LRs of the deceased, as the petitioner had not renewed his driving licence and the insurance company has initiated recovery proceedings against the owner as well as the driver of the offending vehicle i.e. the petitioner. Therefore, taking into account the protracted trial, antecedents of the petitioner coupled with the fact that he has already suffered incarceration for a period of more than eight years, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him subject to payment of compensation to the legal heirs of the deceased, as envisaged under Section 357 Cr.P.C. Reference may be made to judgment of Hon'ble the Apex Court in the case of **State of M.P. Versus Mehtaab 2015(1) RCR (Criminal) 1008** wherein it has been held that when the accused was found guilty of causing death by negligence, the High Court was not justified in reducing sentence of imprisonment 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 reasonable compensation to the heirs of the deceased. The Hon'ble Supreme Court in **State of Himachal Pradesh Versus Ram Pal 2015(2) RCR (Criminal) 127** has also considered the similar controversy and has observed in para Nos.13 and 14 of the judgment as under: -

*“13. It is evident from the facts and circumstances of the case that the respondent has not called in question his conviction. We have before us only challenge to the inadequacy of the sentence in the present appeal filed by the State. Moreover, in an appeal under Article 136 of the Constitution, this Court does not re-appreciate the evidence, in absence of perversity or patent legal error, merely because a different view was also possible. We are thus, not inclined to reopen the correctness of conviction of the respondent and proceed to consider the question of adequacy of the sentence. In our view, the sentence of mere fine of Rs.40,000/- imposed by the High Court is not adequate and proportionate to the offence. We have been informed that a sum of Rs.3,60,000/- has been awarded as compensation by the insurance company to the heirs of the deceased. We are also of the view that where the accused is unable to pay adequate compensation to the victim or his heir, the Court ought to have awarded compensation under Section 357A against the State from the funds available under the Victim Compensation Scheme framed under the said section. This Court has dealt with the issue in **Suresh vs. State of Haryana, 2015 (1) RCR (Criminal) 148, Manohar Singh vs. State of Rajasthan & Ors. 2015 (1) RCR (Criminal) 747 and State of M.P. vs. Mehtaab 2015 (1) RCR (Criminal) 1008.***

Having regard to totality of circumstances of the present case, we feel that ends of justice will be served if the accused is required to pay total compensation of Rs.1 lakh and the State to pay a sum of Rs.3 lakhs.

14. Accordingly, we modify the impugned order passed by the High Court and enhance the compensation to be paid by the respondent accused to Rs.1 lakh to be paid within four months failing which the sentence awarded by the Court of Session shall stand revived. In addition, we direct the State of Himachal Pradesh to pay interim compensation of Rs.3 lakhs. In case the respondent fails to pay any part of the compensation, that part of compensation will also be paid by the State so that the heirs of the victim get total sum of Rs. 4 lakhs towards compensation. The amount already paid may be adjusted.”

Therefore, sentence of petitioner Jagtar Singh is reduced to the period already undergone by him subject to deposit of Rs.25,000/- with the trial Court, which shall be paid by the trial Court to the legal heirs of the deceased - Sunheri Devi within a period of two months, failing which, the petitioner shall be liable to undergo imprisonment, as awarded by the trial Court and affirmed by the lower Appellate Court.

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

September 20, 2017
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No