

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

CRR No.1610 of 2016 (O&M)
Date of Decision: January 11, 2017

Gursev Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.S.Aulakh, Advocate
for the petitioner.

Mr.Deep Singh, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Gursev Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 02.07.2014 passed by learned Chief Judicial Magistrate, Sangrur, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of seven days under Section 279 IPC and further to undergo rigorous imprisonment for a period of two years and to pay fine of ₹1000/- and in default of payment, to undergo rigorous imprisonment for a period of fifteen days under Section 304-A IPC and also challenging the judgment dated 21.01.2016 passed by learned

Sessions Judge, Sangrur, vide which appeal filed by petitioner was

dismissed. However, the conviction and sentence of the accused-petitioner was set aside under Section 279 IPC.

Notice of motion was issued and learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.07 dated 13.01.2009. The brief facts of the case as noted down in the judgment passed by learned CJM, Sangrur, are as under:-

“2. On 13.01.2009, Malkiat Singh got recorded his statement to the effect that he was resident of village Mangwal and was a mason. He is having three daughters and one son. His eldest daughter Bhupinder Kaur is married. Veer Pal Kaur and Manpreet Kaur are unmarried and the youngest son is Inderjit Singh. His daughter Veerpal Kaur was studying in 10+2 at Women College, Sangrur. On 12.01.2009, at about 12.00 noon, Gursev Singh @ Sev son of late Amrik Singh resident of Mangwal came to his house and had uttered bad words to his wife Hardeep Kaur. At that time, his daughter Veerpal Kaur had gone to her college. His wife disclosed everything to him on phone. Thereafter, he came to know that Gursev Singh alongwith his friend Seet Singh @ Harjit Singh son of Karnail Singh resident of Mangwal went on car bearing no.CH-01-Y-1593 alongwith his minor son aged about 3 years, namely Babbu to Sangrur. He made his daughter Veerpal Kaur aged about 20 years sit in his car outside the gate of Women College, Sangrur and went towards Patiala road. It was seen by Avtar Singh son of Jagjit Singh resident of Mangwal of their village that there was grappling between his daughter Veerpal Kaur and Gursev Singh as he knew them. Gursev Singh while driving the car at a high speed and in a rash and negligent manner, hit the same in the tree „tahli“. Due to this impact, his daughter Veerpal Kaur and Babbu son of Gursev Singh died at the spot. A great damage was caused to the car. He was informed about the accident by Avtar Singh. He was also informed by Shobdeep Kaur daughter of Ex Sarpanch Khazan Singh of their village who was studying with Veerpal Kaur in 10+2 that on 12.01.2009 at about 1.00 PM, Gursev Singh made Veerpal Kaur sit forcibly in his car bearing no.CH-01-Y-1593 and kidnapped her.

3. On statement Ex.P2, police proceedings Ex.PW-7/A were endorsed. F.I.R Ex.PW-7/B was registered. Investigation was conducted. Site plan Ex.PW-7/K was prepared. Statements of

the witnesses under Section 161 Cr.P.C were recorded. After completion of the investigation, challan against the accused was presented in the court.”

In support of its case, prosecution examined PW-1 Shobdeep Kaur, PW-2 Avtar Singh, PW-3 Malkiat Singh, PW-4 ASI Ram Singh, PW-5 Dr.Paramvir Singh Klair, Medical Officer, PW-6 ASI Shiv Kumar and PW-7 Inspector Balpuri (retd.).

Statement of the accused under Section 313 Cr.P.C. was recorded. He denied the correctness of the evidence and pleaded himself as innocent. The accused-petitioner examined DW-1 Bimla Rani.

Learned CJM, Sangrur, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Sessions Judge, Sangrur, vide judgment dated 21.01.2016. However, conviction and sentence under Section 279 IPC were set aside.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, 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. Learned counsel for the petitioner argued that petitioner is poor person, only bread earner of the family and he is suffering from the criminal proceedings since 2009. Learned counsel for the petitioner further contended that the petitioner has also lost his own son in the accident.

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 in view of the fact that petitioner is poor person, only bread earner of the family and facing criminal proceedings since 2009 i.e. for the last about 8 years and also in view of the fact that petitioner has also lost his own son in the accident, the sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of 1 year and 3 months under Section 304-A IPC instead of two years. However, sentence of fine and in default thereof shall remain the same.

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

January 11, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No