

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

CRR-2719 of 2016 (O&M)
Date of decision: 23.03.2017

Daljit Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Ms. Jasneet Mehra, Advocate for the petitioner(s).

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Rohit Verma, Advocate for respondent No.2.

Jitendra Chauhan, J.

By filing the present criminal revision, the petitioner has assailed the judgment dated 11.07.2016, vide which, learned Addl. Sessions Judge, Amritsar, upheld the judgment dated 16.03.2016, passed by learned Addl. Chief Judicial Magistrate, Amritsar, whereby, the petitioner was convicted under Sections 279 and 304-A of the Indian Penal Code and sentenced to undergo RI for a period of two years.

The brief facts of the case as set out from the judgment of Court(s) below are as under:-

“That the present FIR was lodged on the statement of complainant Dyal Singh on the allegations that on 16.10.2012, he along with his daughter Davinderjit Kaur and grand-daughter Jaisica went to attend marriage at Chhina Palace, Rajasansi and after attending marriage, he

was on his motorcycle and his daughter Davinderjit Kaur and granddaughter Jaisica were sitting on activa scooter bearing No. PB06-F-5449 and were coming towards green field and when they were going to turn towards green field from Majitha Road bypass, his daughter was going ahead him on her activa with her daughter Jaisica when a truck bearing No. PB02-AX-7996 came from behind in a very rash and negligent manner without blowing horn and hit his daughter's activa due to which his daughter and granddaughter fell on road and both the legs of his daughter Davinderjit Kaur were fractured and his granddaughter also sustained injuries. Meantime, his brother in-law Nirvail Singh came at the spot, who took them to Guru Nank Dev Hospital where his daughter Davinderjit Kaur was declared dead by the doctors. The activa of his daughter was also got damaged. He came to know the name of driver of truck as Daljit Singh son of Amar Singh whom he can identify. On the basis of statement of Dayal Singh, the present FIR was registered.”

The accused was charge sheeted under Sections 279 and 304-A IPC, to which he pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 Dayal Singh, the complainant; PW-2 Nirvail Singh; PW-3 Navpreet Singh; PW-4 HC Sudesh Kumar; PW-5 HC Pajinder Singh; PW-6 ASI Davinder Kumar and remaining evidence was closed by order on 25.02.2016.

The statement of the accused under Section 313 Cr.P.C., was recorded. He pleaded innocence and alleged false implication. However, he did not lead any evidence in his defence.

After hearing the Addl. Public Prosecutor, the Counsel for the accused, and after going through the evidence, on record, the trial Court convicted and sentenced the accused/petitioner, as stated hereinbefore.

The appeal filed by the petitioner was also dismissed, vide impugned dated 11.07.2016. Feeling aggrieved against the judgments of both the Courts below, the instant revision was filed by the accused/petitioner.

On 03.08.2016, the learned counsel for the petitioner made a statement that he does not press the revision petition on its merits and the notice of motion was issued only to the limited extent of quantum of sentence. The learned counsel for the petitioner submits that the petitioner is the sole bread earner of the family, who has suffered a protracted trial since the year 2012 and never misused the concession of bail during the trial, therefore, a lenient view in the matter of sentence be taken by this Court. As per custody certificate, the petitioner has undergone 01 month and 20 days, out of substantive sentence of two years.

On the other hand, the learned State counsel opposes the prayer of petitioner/accused and supports the judgment of conviction and order of sentence passed by the trial Court.

I have heard the arguments of the learned counsel for the parties and have carefully gone through the record of the case.

The prosecution case is fully proved by the statements of the

prosecution witnesses. Since the learned counsel for the petitioner has not pressed the present petition on its merits, therefore, the same is is dismissed on merits.

Now coming to the quantum of sentence, considering that the petitioner has suffered the agony of the protracted trial as the FIR pertains to the year 2012; the petitioner being the sole bread winner of the family is saddled with the responsibility of children and old parents, which in the opinion of this Court are mitigating circumstances in favour of the petitioner, therefore, the sentence awarded to the petitioner is ordered to be reduced to the 1½ years.

Ordered accordingly.

However, the same shall be subject to payment of Rs. 25,000/- to be paid to respondent No.2 towards compensation within three months from the date of receipt of certified copy of the order. It is made clear that if the amount is not paid within the stipulated period, the present revision petition shall be deemed to be dismissed without any notice and the grant of reduced sentence shall no longer enure to the petitioner.

23.03.2017

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No