

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRR No. 2999 2016 (O&M)
Date of Decision: 16.03.2017

Neetpal Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Gagandeep Singh, Advocate for
Mr. A.S. Manaise, Advocate for the petitioner.

Mr. S.S. Gill, D.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

The instant revision petition is directed against the order dated 6.5.2016, passed by learned Additional Sessions Judge, Faridkot affirming the judgement and order dated 16.11.2015, passed by learned A.C.J.M., Faridkot convicting the petitioner for offence under Section 304-A I.P.C and sentencing him to undergo R.I for 2 years and to pay a fine of Rs.5,000/- and in default of payment of fine to further undergo S.I for 1 month.

Briefly stated, case of the prosecution is that complainant Kiran Deep Singh and his nephew Ramneek Singh were proceeding on two separate motorcycles on 3.1.2010. Ramneek Singh was going ahead of the complainant and at about 1.15 P.M a bus belonging to Raj Transport Company bearing registration no. PB-02-AL-9953 being driven in a very rash and negligent manner, struck against the rear side of the motorcycle driven by Ramneek Singh and who suffered injuries and succumbed to the same.

After completion of investigation report under Section 173 Cr.P.C was filed against the present petitioner/accused to face trial being the driver of the offending vehicle. He stands convicted and sentenced by the Trial Court as afore-noticed and appeal filed by him against the judgement of conviction and order of sentence, has been dismissed by the learned Additional Sessions Judge, Faridkot.

Learned counsel appearing for the petitioner, at the very outset, makes a submission that he is not assailing the conviction on merits but would confine the scope of the instant revision petition only as regards quantum of sentence. Learned counsel would submit that the petitioner is a poor person and the sole bread winner of the family. Further contended that the petitioner was a first time offender and yet the maximum punishment envisaged under Section 304-A I.P.C has been meted out.

Learned State counsel would, however, submit that the life of a young boy has been lost on account of the rash and negligent driving of the petitioner and as such, there would be no occasion for this Court to interfere with the quantum of sentence. Learned State counsel has referred to a recent judgment of the Hon'ble Supreme Court of India in ***Criminal Appeal No.520 of 2015 (arising out of SLP (Criminal) No.5825 of 2014 "State of Punjab v. Saurabh Bakshi"***), decided on 30.3.2015 in support of his contention.

Learned counsel for the parties have been heard and the judgments rendered by the Courts below have been perused.

In ***Saurabh Bakshi's*** case (supra), accused had been convicted for offences under Sections 279/304-A of the Indian Penal Code for having caused death of two persons by rash and negligent driving of motor vehicle.

The High Court while dealing with the revision petition filed by the accused therein had taken notice of a deposit of Rs.85,000/- having been made before the trial Court towards compensation to be paid to the legal representatives of the two deceased persons and while upholding the conviction of Saurabh Bakshi had reduced the sentence to the period already undergone i.e. of 24 days. It is in the light of such facts that the Hon'ble Supreme Court had accepted the appeal preferred by State of Punjab and had observed that the High Court had been swayed by the passion of mercy in applying the principle that payment of compensation is a factum for reduction of sentence to 24 days. It was held that such course was in the realm of mis-placed sympathy. It was further held that it cannot be said as a proposition of law that whenever an accused offers acceptable compensation for rehabilitation of a victim, regardless of the gravity of the crime under Section 304-A of the Indian Penal Code, there can be reduction of sentence.

In ***Shailesh Jasvantbhai v. State of Gujarat, (2006) 2 SCC 359***, it had been observed by the Apex Court as under:

“.....The concept of proportionality allows a significant discretion to the Judge but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect – propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the valuebased social mainstream may

be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner. We may hasten to add that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion.”

Adverting back to the facts of the present case, undoubtedly, a young life has been lost, however, there are sufficient mitigating circumstances that would justify this Court's intervention as regards quantum of sentence.

The incident relates back to the year 2010. The petitioner has faced the pangs of trial followed by an appeal for a period in excess of 6 years. He is stated to be a poor person and the sole bread winner of the family. As per custody certificate furnished by learned State counsel the petitioner has undergone a custody period for more than 10 months as on date. During the course of arguments counsel has made available for perusal of this Court the award dated 3.11.2010, passed by the Motor Accident Claims Tribunal, Faridkot and in terms of which a compensation of Rs.18,72,000/- has been awarded to the claimants i.e. mother, widow and children of deceased Ramneek Singh. Counsel submits that the petitioner is ready and willing to pay a sum of Rs.50,000/- towards compensation in addition to the award rendered by the Motor Accident Claims Tribunal, Faridkot. As per custody certificate the petitioner is a first time offender, yet, the Trial Court has awarded the maximum punishment envisaged under Section 304-A I.P.C.

Taking into account the afore-noticed mitigating circumstances, the present revision petition is disposed of in terms of upholding the conviction of the petitioner but reducing the sentence of the petitioner to a

period of 1 year R.I.

Petitioner would be released upon completion of such reduced sentence of 1 year R.I subject to making a prior deposit of Rs.50,000/- with the Trial Court and in the eventuality of his doing so, such amount would be released in favour of Sukhminder Kaur i.e. widow of deceased Ramneek Singh.

Revision petition is disposed of accordingly.

(TEJINDER SINGH DHINDSA)
JUDGE

16.03.2017

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Whether speaking/reasoned:	Yes
Whether Reportable:	Yes