

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

CRR No.4297 of 2016 (O&M)

Decided on:-July 19, 2017.

Jatinder Singh.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

Present:- Mr. Ghulam Nabi Malik, Advocate  
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. Kuldip Singh, Advocate  
for respondents No.2 to 6.

**HARI PAL VERMA, J.**

**CRM-6530 of 2017**

Prayer in this application filed under Section 482 Cr.PC is for impleading the complainant and other legal representatives of deceased Nachhattar Singh and Kewal Singh as respondents No.2 to 6.

For the reasons stated in the application, the same is allowed and the complainant and other legal heirs of deceased Nachhattar Singh and Kewal Singh are ordered to be impleaded as respondents No.2 to 6.

Amended Memo of Parties is taken on record.

**CRR No.4297 of 2016**

Petitioner Jatinder Singh has filed the present revision petition challenging the judgment dated 12.10.2016 passed by learned Sessions Judge, Bathinda, whereby his appeal filed against the judgment of

conviction and order of sentence dated 02.12.2014 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Phul, was dismissed.

Learned Magistrate vide judgment dated 02.12.2014 convicted the petitioner for offence punishable under Sections 279 and 304-A IPC and vide separate order of even date, sentenced him as under:

| <u>Under Section</u> | <u>Sentence</u>                                                                                                                                                    |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 279 IPC              | Rigorous imprisonment for a period of six months with fine of Rs.500/- and in default of payment of fine, to further undergo simple imprisonment for fifteen days. |
| 304-A IPC            | Rigorous imprisonment for a period of two years with fine of Rs.2,000/- and in default of payment of fine, to further undergo simple imprisonment for one month.   |

However, both the substantive sentences were ordered to run concurrently.

Briefly stated, on 08.02.2012, ASI Sukhdev Singh along with other police officials was present at main Chowk Bhagta Bhai Ka in connection with patrolling and checking of suspects. In the meantime, Sukhdeep Singh son of Nachhattar Singh met the police party and got recorded his statement to the effect that he is resident of village Jalal and is running a Laboratory shop in said village. On that day i.e. 08.02.2012, he along with his friend Ram Karan on his motorcycle bearing registration No.PB-69-7038 and his father Nachhattar Singh along with his uncle Kewal Singh on his newly purchased motorcycle, were returning from village Sirewala to their village Jalal after meeting their relative. His father Nachhattar Singh and his uncle Kewal Singh were going on their motorcycle

about 20 Karams ahead of them while they were followed by a Scooter. When they reached a little ahead of Petrol Pump towards Bhagta Bhai Ka, a bus bearing registration No.PB-13H-0892 of Hind Company came from the opposite side. The said bus was being driven by Jatinder Singh in a rash and negligent manner and at a fast speed. The driver of the said Bus took a sharp turn without slowing down its speed in a rash and negligent manner, as a result of which the bus turned turtle and the father of complainant and his uncle along with the scooterist came under the said Bus and died at the spot. The driver of the bus fled away from the spot after leaving his bus there.

On the basis of statement of the complainant, the FIR No.13 dated 08.02.2012 under Sections 279, 337, 338, 427 and 304-A IPC was registered against the accused at Police Station Dialpura. Statements of witnesses were recorded by the police. Site plan was prepared and the petitioner-accused was arrested. After completion of investigation, Challan was presented in the Court. Copy of challan was supplied to the petitioner-accused free of costs as envisaged under Section 207 Cr.PC. Thereafter, the accused was charge-sheeted by the trial Court for the commission of offence under Sections 279 and 304-A IPC to which he did not plead guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as 7 witnesses including complainant Sukhdeep Singh as PW1. Thereafter, the statement of accused under Section 313 Cr.PC was recorded wherein he denied the allegations levelled against him. However, he did not examine any witness in his defence.

Considering the evidence so adduced, the trial Court vide its judgment and order dated 02.12.2014 had convicted and sentenced the petitioner in the manner as mentioned above.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment of conviction and order of sentence before the Court of Session, but the same was also dismissed by learned appellate Court vide judgment dated 12.10.2016.

It is in these circumstances that the petitioner has filed the present revision petition challenging the verdicts of the Courts below.

On 28.02.2017, while issuing notice of motion, the following order was passed by this Court:

*“Heard.*

*Learned counsel for the petitioner submits that matter has since been amicably settled with the family of the deceased and he will not press this revision on merits but the settlement of dispute may have effect which can be looked into by this court for reducing the sentence awarded to the petitioner.*

*Notice of motion to this limited extent for 19.04.2017.*

*Mr. Kuldip Singh, Advocate, who is present in the Court, has put in appearance on behalf of legal heirs of deceased and filed power of attorney.”*

Learned counsel for the petitioner has contended that during the pendency of present revision petition, the parties have entered into a compromise on 20.01.2017 with the intervention of relatives and respectables of the area. As per the compromise, both the parties have sorted out all their disputes and now they have no grievance against each other.

He has further submitted that as against the awarded maximum sentence of two years, the petitioner is in custody since 12.10.2016 i.e. the date of impugned judgment passed by the appellate Court and, therefore, he has undergone imprisonment for a period of more than nine months. The petitioner has been suffering the agony of criminal proceedings since 08.02.2012 i.e. the date when the FIR was registered against him. Therefore, it should be a sufficient mitigating circumstance to treat him leniently. Therefore, the very prayer of the petitioner is to consider this revision petition on quantum of sentence. The petitioner would be satisfied if the sentenced awarded to him is reduced to the period already undergone by him. He has produced before this Court compromise deed dated 20.01.2017 which is taken on record.

Learned counsel appearing on behalf of the respondents No.2 to 6 has admitted the factum of compromise entered between the parties on 20.01.2017. He states that the respondents No.2 to 6 have no objection if the remaining sentence of the petitioner-accused is reduced to the period already undergone by him.

On the other hand, learned State counsel, though has not disputed the custody of the petitioner, but has opposed the plea of taking a liberal view, as raised by learned counsel for the petitioner because such like accidents are on high rise. Therefore, in such like offences, severe punishment is necessary.

I have heard learned counsel for the parties.

Hon'ble Supreme Court in *State of Punjab Versus Saurabh*

**Bakshi 2015(2) RCR(Criminal) 495** has held as under:

*“The protagonists, as we perceive, have lost all respect for law. A man with the means has, in possibility, graduated himself to harbour the idea that he can escape from the substantive sentence by payment of compensation. Neither the law nor the court that implements the law should ever get oblivious of the fact that in such accidents precious lives are lost or the victims who survive are crippled for life which, in a way, worse than death. Such developing of notions is a dangerous phenomenon in an orderly society. Young age cannot be a plea to be accepted in all circumstances. Life to the poor or the impecunious is as worth living for as it is to the rich and the luxuriously temperamental. Needless to say, the principle of sentencing recognizes the corrective measures but there are occasions when the deterrence is an imperative necessity depending upon the facts of the case. In our opinion, it is a fit case where we are constrained to say that the High Court has been swayed away by the passion of mercy in applying the principle that payment of compensation is a factor for reduction of sentence to 24 days. It is absolutely in the realm of misplaced sympathy. It is, in a way mockery of justice. Because justice is “the crowning glory”, “the sovereign mistress” and “queen of virtue” as Cicero had said. Such a crime blights not only the lives of the victims but of many others around them. It ultimately shatters the faith of the public in judicial system. In our view, the sentence of one year as imposed by the trial Magistrate which has been affirmed by the appellate court should be reduced to six months.”*

In **Parsa Ram son of Jallu Ram Versus State of Punjab**

**2015(26) RCR(Criminal) 654**, this Court has reduced the sentence of

accused to the period already undergone almost in similar circumstances. In that case, the accused was convicted under Sections 279 and 304-A IPC and had undergone a total sentence of about 6 months out of the awarded sentence of 18 months. The relevant paragraphs No.11, 12 and 13 of the said judgment are reproduced as under:

*“11. The incident relates back to the year 2011. The petitioner has faced the pangs of trial followed by appeal for the period of almost four years. He is stated to be a poor person and the sole bread-winner of the family. As per custody certificate furnished by the learned State counsel, the petitioner has already undergone a custody period of 5 months and 10 days as on 23.7.2015. In other words, as of date, out of the substantive sentence of 18 months awarded, the petitioner has undergone a total sentence period of almost 6 months. He is not stated to be involved in any other criminal proceedings. During the course of trial, the petitioner was on bail and he, concededly, has not misused such concession.*

*12. It would also be apposite to take note of the fact that learned counsel for the complainant has made a statement that even a compromise and settlement has been arrived at with the petitioner and suitable compensation has already been received.*

*13. Taking into account the afore-noticed mitigating circumstances, the present revision petition is partly allowed to the extent of upholding the conviction of the petitioner but reducing the sentence of the petitioner to the period already undergone. In the light of the settlement having already been arrived at between the parties and suitable compensation having already been paid, there will be no requirement for the petitioner/accused to pay a sum of Rs.30,000/- as had been*

*directed by the trial Court under Section 357(3) of the Code of Criminal Procedure.”*

In view of the compromise effected between the parties coupled with the fact that the petitioner has restricted his prayer to the extent of quantum of sentence only, this Court is of the view that no useful purpose will be served by keeping the petitioner behind bars. The petitioner is facing ordeal of criminal proceedings for the last more than five years and is in custody since 12.10.2016. Learned State counsel has not pointed out any other criminal case, whether pending against the petitioner or he has ever been convicted. Therefore, considering the fact that the petitioner is first time offender and has compromised the matter with the legal heirs of deceased Nachhattar Singh and Kewal Singh, the ends of justice would be met if the conviction of the petitioner is maintained, however, the sentence awarded to him is reduced to the period of sentence already undergone.

Accordingly, the conviction of the petitioner-accused is upheld but the sentence is reduced to the period already undergone by him.

Perusal of order of sentence dated 02.12.2014 passed by learned trial Court reveals that the fine has already been deposited by the petitioner. Therefore, he be released forthwith, if not required in any other case.

With the aforesaid modification, the present revision petition stands dismissed.

**July 19, 2017**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

|                            |     |
|----------------------------|-----|
| Whether speaking/reasoned: | Yes |
| Whether Reportable:        | No  |