

Sr. No.109

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR No.11 of 2017 (O&M)
Date of Decision:13.01.2017

Krishan Kumar

... Petitioner

Versus

State of Haryana and another

... Respondents

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

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

TEJINDER SINGH DHINDSA, J.(ORAL)

Krishan Kumar present petitioner was convicted for offence under Section 304-A IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1000/- (in default of payment of fine to further undergo rigorous imprisonment for a period of 02 months) as also convicted for offence under Section 279 IPC and sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.1000/-(in default of payment of fine to undergo further rigorous imprisonment for a period of 02 months) vide judgment dated 19.09.2013 passed by the Additional Chief Judicial Magistrate, Sirsa. Both the sentences were directed to run concurrently.

In the appeal that was preferred by Krishan Kumar vide judgment dated 22.12.2016 passed by the learned Additional Sessions Judge, Sirsa, conviction has been upheld but the sentence awarded by the trial Court has been reduced to 2 ½ months from two years for offence under Section 304-A IPC and likewise the sentence awarded for offence

under Section 279 IPC has also been reduced to 2 ½ from 06 months. Both

the reduced sentences have been directed to run concurrently.

The instant revision petition is directed against the judgment dated 22.12.2016 passed by the learned Additional Sessions Judge, Sirsa.

Mr. P.S.Jammu, learned counsel representing the petitioner raises a solitary submission. He contends that after conviction of the petitioner for offences under Sections 279/304-A IPC by the trial Court, the appeal had been preferred and in which the conviction had not been assailed on merits. He has adverted to paras 6 and 7 of the judgment passed by the appellate Court to submit that a compromise had been entered into with Satpal i.e. father of the deceased Loveprit Singh and who had also put in appearance before the Court and had suffered a statement that he would have no objection if the Court acquits the accused/appellant (petitioner herein) and had also deposed that he had already received compensation amount with regard to death of his son. Counsel contends that under such circumstances, the appellate Court was bound to recognize the compromise/settlement entered into between the parties and Court has clearly erred even as regards imposing the reduced sentence of 2 ½ months. Counsel prays for intervention in the matter for further reduction in the quantum of sentence in view of the compromise entered into with Satpal i.e. father of the deceased Loveprit Singh and on account of a compensation money having already been paid.

Having heard counsel for the petitioner at length and having perused the pleadings on record, I am of the considered view that the instant petition is wholly misconceived.

Briefly, it may be noticed that the process of law had been set in motion on the complaint of Satpal Son of Dara Singh dated 24.08.2008 in

which he had stated that on 24.08.2008 itself he along with his family was proceeded to Village Rangri Khera and was accompanied by his son Loveprit Singh, aged 10 years. At about 3.30 p.m. a truck bearing registration No. RJ-31-GA/2512 being driven by the present petitioner, namely, Krishan Singh in a rash and negligent manner came from the side of Sirsa and hit his son Loveprit Singh and crushed him to death. The truck was got stopped by the villagers at a close distance from the site of the accident. On the basis of the complaint made by Satpal, case was registered against the offending driver of the vehicle i.e. (present petitioner). The trial has ensued and culminated in the conviction of the petitioner for offences under Sections 279/304-A IPC. In the appeal preferred by the petitioner, the conviction of the petitioner recorded by the trial Court was not assailed. Satpal father of the deceased did appear before the appellate Court and had suffered a statement that compensation money had been received and accordingly he would have no objection as regards the appellant/petitioner herein being acquitted or for that matter for the sentence to be reduced. The appellate Court on the strength of such statement has reduced the substantive sentence from 02 years to 2 ½ months.

In *State of Punjab Vs. Saurabh Bakshi (2015) 05 Supreme Court Cases 182*, the Hon'ble Supreme Court had examined the aspect of quantum of sentence in relation to conviction under Section 304-A of the Indian Penal Code. In Saurabh's case (supra) accused had been convicted for offences under Sections 279/304-A IPC for having caused death of two persons by rash and negligent driving of a motor vehicle. The High Court while dealing with the revision petition filed by the accused 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. The Apex Court accepted the appeal preferred by the State of Punjab and observed that the High Court had been swayed by the passion of mercy in applying the principle that payment of compensation is a relevant consideration for reduction of sentence. It was held that such course was in the realm of misplaced 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 IPC, there can be reduction of sentence. Relevant observations made by the Hon'ble Supreme Court in this regard are contained in paras 23, 24 and 25 of the judgment and the same are reproduced herein:-

23 *“In the instant case the factum of rash and negligent driving has been established. This Court has been constantly noticing the increase in number of road accidents and has also noticed how the vehicle drivers have been totally rash and negligent. It seems to us driving in a drunken state, in a rash and negligent manner or driving with youthful adventurous enthusiasm as if there are no traffic rules or no discipline of law has come to the centre stage. The protagonists, as we perceive, have lost all respect for law. A man with 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, is 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.

24. *Needless to say, the principle of sentencing recognises 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.*

25. *Before parting with the case we are compelled to observe that India has a disreputable record of road accidents. There is a nonchalant attitude among the drivers. They feel that they are the “Emperors of all they survey”. Drunkenness contributes to careless driving where the other people become their prey. The poor feel that their lives are not safe, the pedestrians think of uncertainty and the civilised persons drive in constant fear but still apprehensive about the obnoxious attitude of the people who project themselves as “larger than life”. In such obtaining circumstances, we are bound to observe that the lawmakers should scrutinise, relook and revisit the sentencing policy in Section 304-A IPC. We say so with immense anguish.”*

Adverting back to the facts of the present case,

petitioner/accused has been found guilty of rash and negligent driving. A young innocent life has been lost. The judgment of conviction passed by the trial Court is based on cogent and valid reasoning and upon due appreciation of evidence adduced. In any case conviction has not been assailed as per statement made by counsel. In the considered view of this Court, the appellate Court has already taken a rather lenient view by reducing the substantive sentence of rigorous imprisonment for a period of two years to that of 2 ½ months. The same would not call for any intervention in exercise of the revisional jurisdiction of this Court.

Petition is, accordingly, dismissed.

13.01.2017

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes
Yes