

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1470-2017 (O&M)

Date of Decision: 24.10.2017

Hardeep Singh

..Petitioner

versus

State of Punjab

..Respondent

CORAM: HON'BLE MR JUSTICE RAMENDRA JAIN

Present: Mr. G.S.Verma, Advocate, for the petitioner

Ms. Bhavna Gupta, Deputy Adv. General, Punjab.
assisted by Mr. P.S.Khurana, Advocate.

RAMENDRA JAIN, J.

1. Through this instant petition under section 401 of the Code of Criminal Procedure, the petitioner has challenged the impugned judgment dated 17.3.2017 of the first appellate court dismissing the appeal of the petitioner, thereby affirming the judgment of conviction and order of sentence dated 16.3.2016 of the trial court in the following terms:-

U/s 279 IPC To undergo RI for six months and pay a fine of Rs.500/-. In default thereof, further undergo Simple Imprisonment for 15 days.

U/s 304-A To undergo RI for two years and pay a fine of Rs.500/-. In default thereof, further undergo simple imprisonment for one month.

U/s 427 IPC To pay a fine of rs.500/-. In default thereof, simple Imprisonment for 10 days

2. In nut-shell, the facts of the prosecution are that on 06.09.2013,

on receipt of a wireless message from Police Station Division No.3 that after an accident, patient Gurpreet Singh was got admitted in CMC & Hospital, Ludhiana, whereupon, Head Constable Baljit Singh along with his team reached CMC & Hospital, Ludhiana. The doctor declared the patient unfit to give statement. On 7.9.2013, on receipt of the information that Gurpreet Singh had died during treatment, the police party went to CMC & Hospital, Ludhiana, where they met Jaspreet Singh, brother of the deceased-victim. He got his statement recorded to the effect that he is a property advisor. His brother Gurpreet Singh runs a shop of repairing refrigerator and Air conditioners in the name of Sodhi Refrigerator in front of Police Station Meharban. At around 11.15 A.M on 6.9.2013 when he was going towards Ludhiana from village Mangli, one auto rikshaw bearing registration no. PB-10-CH-0917, being driven in a rash and negligent manner, was going ahead of him. When he crossed the bus stop of village Hawas, he noticed that all of a sudden, the driver of auto rikshaw hit the motor-cycle coming from Ludhiana side. The pillion rider of motor-cycle fell down on the ground. When he went near the victim, he saw that it was his brother Gurpreet Singh. His brother had sustained serious injuries on his head. Blood was oozing out of his ear and eyes. He arranged for a vehicle and got his brother admitted to CMC & Hospital, Ludhiana. On the basis of this statement, FIR under sections 279/304-A and 427 IPC was registered against the accused. After completion of necessary formalities, a final report under section 173 of the Code of Criminal Procedure was presented before the court.

3. The accused was charge sheeted under sections 279, 304-A and 427 IPC, to which he pleaded not guilty and claimed a trial. After closure of

the evidence by the prosecution, statement of the accused under section 313 of the Code of Criminal Procedure was recorded, putting all the incriminating material came on the record against him, to which he denied and pleaded his innocence and false implication.

4. Both the learned courts below, after analysing the evidence on record and hearing arguments by both the sides, convicted and sentenced the accused in the manner as indicated in the opening paragraph of this judgment.

5. A perusal of the order dated 25.4.2017 passed by a co-ordinate Bench of this court reveals that notice of motion only on the point of quantum of sentence was issued. For facility of reference, order dated 25.4.2017 reads as follows:-

“ Learned counsel for the petitioner without challenging the conviction of petitioner on merits, submits that there are reasons for taking lenient view regarding the quantum of sentence awarded to the petitioner for offence punishable under section 304-A of Indian Penal Code.”

Notice of motion to this limited extent only for 27.07.2017.”

6. Learned counsel for the petitioner, on the point of quantum of sentence submitted that the petitioner is a poor person and is the only bread earner of his family. Except him, there is no other member to look after his family. He has been facing the agony of protracted trial since 2013. He has undergone actual sentence of 04 months and 24 days, out of a total sentence of 2 years awarded under section 304-B IPC. He prays that the petitioner may be released on probation of good conduct under the

Probation of Offenders Act, 1958 (hereinafter referred to as “the Act”).

7. Having heard learned counsel for the petitioner on the quantum of sentence, this court is of the view that it has been established on the record beyond reasonable doubt that the petitioner was driving his vehicle rashly and negligently and caused the death of Gurpreet Singh. Therefore, the prayer of the learned counsel that the petitioner, keeping in view his family circumstances, may be released on probation of good conduct, can not at all be countenanced, especially when the precious life of a human being was cut short on account of his rash and negligent driving leaving his family and children at the mercy of the Almighty. In order to maintain law and order situation, the person, like the petitioner, violating the provisions of the traffic rules, as enshrined under the statute, are required to be dealt with severe hands. The trend of rash and negligent driving now-a-days needs to be curbed down as death toll in accident cases in the country is increasing alarmingly. In such circumstances, the petitioner does not deserve any leniency in the matter of sentence. The proposition of law as to whether the benefit of probation under the Act should be granted to the accused convicted of the offence under section 304-IPC has been settled by the Hon'ble Apex Court in Dalbir Singh versus State of Haryana 2000(2) RCR (Criminal) 816, observing that the courts should not, as a normal rule, invoke the provisions of the Act, when the accused is convicted of the offence under section 304-A IPC for causing the death of human beings by rash or negligent driving. Following the observations made by the Hon'ble Apex Court in Dalbir Singh's case (supra), the plea of the learned counsel to grant benefit of probation to the petitioner under the Act, is not acceptable to this court, keeping in view the fact that Gurpreet Singh

(deceased) lost his precious life in a vehicular accident. The approach of both the learned courts below in not granting the benefit of probation of good conduct to the petitioner, in my considered view, can not at all be said to be erroneous that may warrant interference by this court.

8. In view of the foregoing discussion, this court does not find any illegality or perversity in the impugned judgments of both the learned courts below in exercise of revisional jurisdiction. Therefore, the conviction and sentence of the petitioner is maintained. Accordingly, revision, being without any merit, fails and is dismissed.

24.10.2017
VK

(RAMENDRA JAIN)
JUDGE

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| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether Reportable: | Yes/No |