

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

CRR-1865-2017(O&M)

Date of decision:-6.12.2017

Narinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Amit Arora, Advocate
for the petitioner.

Mr.Kirat Singh Sidhu, DAG, Punjab.

H.S. MADAAN, J.

CRM-16828 of 2017

This application under Section 5 of the Limitation Act read with Section 482 Cr.P.C. has been filed for condonation of delay of 75 days in filing of the revision petition for the reason that since the petitioner was behind the bars, he could not get the revision petition filed within time and delay was not intentional.

Though the application is being opposed by the State counsel but I find sufficient reasons to condone the delay.

Therefore, the application is allowed and delay of 75 days in filing of the present revision petition is condoned.

CRR-1865-2017(O&M)

This revision petition is directed against the judgment dated 2.12.2016 passed by learned Additional Sessions Judge, Kapurthala vide which the judgment and order of sentence dated 23.12.2014 passed by learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi convicting accused Narinder Singh for the offences under Sections 279 and 304-A IPC and sentencing him for those offences were upheld, whereas the appeal filed by accused-convict was dismissed.

The accused-convict – Narinder Singh, who is petitioner before this Court prays that this revision petition be accepted, the impugned judgment of his conviction and order of sentence passed by Sub Divisional Judicial Magistrate, Sultanpur Lodhi and judgment in appeal by learned Additional Sessions Judge, Kapurthala be set aside and he be acquitted of the charge framed against him.

Briefly stated, the facts of the case as per prosecution story are that criminal machinery in this case was set into motion by complainant Surinderjit Singh son of Sohan Singh, resident of Mohalla Prempura, Sultanpur Lodhi, who in his statement made to the police stated that on 11.12.2009 while he was going on his motorcycle bearing registration No.PB-41-3435 from Sultanpur Lodhi towards village Wara Budh Singh, Sukhdev Singh son of Amarjit Singh, resident of Murajwala, P.S. Lohian, District Jalandhar was going ahead of him in his car bearing No.PB-02-AR-8787; that at about 6:30 p.m., when they had reached a little ahead of village Deepewal then from the opposite side came a bus having registration No.PB-02-AZ-9939 driven by accused Narinder Singh

in a rash and negligent manner, without blowing horn and it struck car of Sukhdev Singh dragging it to a considerable distance; that the car and bus fell into ditches; that the car was badly damaged; that Sukhdev Singh had suffered multiple injuries; that he was extracted from the car with great difficulty and removed to Civil Hospital, Sultanpur Lodhi from where he was referred to some other hospital and he was taken to Vishal Hospital, Jalandhar; that the injured ultimately succumbed to the injuries. The formal FIR in the matter was recorded. The case was investigated, during the course of which, accused was arrested on 19.12.2009. The offending bus was taken into possession. Statements of witnesses were recorded.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi, he supplied copies of documents relied upon in the challan to the accused free of costs as provided under Section 207 Cr.P.C.

Learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi finding that charge for offences under Sections 279 and 304-A IPC was disclosed against the accused, charge-sheeted the accused for the said offences, to which, he pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as six witnesses, namely, HC Amrik Singh as PW1, Surinderjit Singh – complainant as PW2, Dalip Singh as PW3, HC Balbir Singh as PW4, HC Jaswinder Singh as PW5 and SI Jagir Singh as PW6.

Thereafter, the prosecution evidence was closed by Court order.

Statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against him were put to him but he denied the allegations contending that he is innocent and had been falsely involved in this case.

The accused did not examine any witness in defence evidence.

After hearing arguments, learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi vide judgment dated 23.12.2014 convicted accused Narinder Singh for the offences under Sections 279 and 304-A IPC and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- and in default thereof, to further undergo rigorous imprisonment for three days for the offence under Section 304-A IPC and he was further sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.200/- and in default thereof, to further undergo rigorous imprisonment for three days for the offence under Section 279 IPC, both the sentences were ordered to run concurrently. The appeal preferred against the judgment of conviction and order of sentence passed by the Sub Divisional Judicial Magistrate, Sultanpur Lodhi was also decided against the accused by learned Additional Sessions Judge, Kapurthala, which left petitioner – accused Narinder Singh aggrieved and he has filed the present revision petition.

I have heard learned counsel for the petitioner-accused-convict and learned Deputy Advocate General for the State of Punjab

besides going through the record.

At the very outset, learned counsel for the petitioner states that he does not challenge the impugned judgments on the point of conviction but his prayer is only regarding sentence part. He has stated that petitioner is aged about 47 years and a first offender and in addition to that his family is dependent upon him for financial support.

As per the custody certificate, the accused is not shown to be involved in any other criminal case earlier to the FIR in question and subsequent thereto and out of two years of substantial sentence imposed upon him, he is shown to have undergone total sentence of one year, two months and seventeen days.

The judgments of conviction passed by the Courts below are well reasoned ones, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein.

I find that ends of justice would be squarely met if the petitioner is sentenced to imprisonment already undergone by him, while in custody in the present case. Therefore, the impugned judgments are upheld as regards conviction part qua the petitioner.

However, as far sentence part is concerned, the same is modified and the petitioner is sentenced to imprisonment already undergone by him as mentioned supra. The fine is stated to have already been paid.

As such the revision petition challenging the impugned judgments stand disposed of with above modification in sentence.

The petitioner – Narinder Singh who is stated to be in custody is ordered to be released forthwith, if not required in any other case.

Necessary intimation be sent to the quarter concerned.

6.12.2017

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No