

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

CRR-188-2017

Date of Decision: 12.07.2017

Gaurav Jain

..... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Ramnish Puri, Advocate,
for the petitioner.

Mr. A.A. Pathak, Addl. AG, Punjab.

Ms. Vijay Lakshmi, Advocate,
for legal heirs of the deceased-Malkit Singh.

SUDIP AHLUWALIA J. (ORAL)

The petitioner was convicted of the offence under Sections 279, 338 and 304A of the Indian Penal Code (for short 'IPC') by the Ld. Sub Divisional Magistrate (for short 'SDJM'), Patti in proceedings arising out of FIR No.71 dated 01.04.2011. He was awarded sentence for the terms of three months, one year and two years RI respectively for the aforesaid 3 offences, apart from imposition of fine. He thereafter filed this revision petition after his appeal was dismissed by the Ld. Sessions Court. Subsequently, on 26.04.2017, when this matter came up before the Coordinate Bench, the petitioner's counsel restricted his prayer only to the reduction of the quantum of sentence, without assailing the judgments of conviction otherwise on merits. The prayer was opposed on behalf of the State, who had relied upon the decision of Supreme Court in “**State of Punjab vs. Saurabh Bakshi 2015(2) RCR (Criminal) 495**” since the petitioner had not undergone the minimum sentence rendered to 6 months by the Apex Court in that matter.

It may be further mentioned that such reduction was sought for on the basis of the compromise arrived at with the victim's family including his parents, which was also a common factor with the facts in the case of Saurabh Bakshi (supra). From the custody certificate on record, it transpires that by now, the petitioner has undergone imprisonment in excess of 7 months and, therefore, meets up to the bench mark set out in the aforesaid decision. The genuineness of the compromise arrived at with the victim's family, which was separately sought to be verified by the Coordinate Bench in the earlier order passed on 07.03.2017 has also been authenticated subsequently from the report sent up by the Ld. Sub-Divisional Magistrate, vide his memo No.225 dated 07.03.2017.

In the circumstances, the present petition is partly allowed and the impugned orders are affirmed. However, the sentence of the petitioner is reduced to the extent already undergone by him. He be released from custody forthwith, if not required in any other criminal case.

(SUDIP AHLUWALIA)
JUDGE

12.07.2017
Dinesh