

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

CRR No. 668 of 2017

DATE OF DECISION :- December 05, 2017

Rampal Singh alias Iqbal Singh

...Petitioner

Versus

State of Haryana

...Respondent

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

Present:- Mr. Naresh Kumar Manchanda, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Rampal Singh alias Iqbal Singh, an accused in F.I.R. No. 28 dated 27.2.2009 for offences under Sections 279, 304-A, 427 IPC registered with Police Station Mehna, District Moga faced trial by Judicial Magistrate Ist Class Moga and vide judgment dated 6.10.2015, he was convicted for offences under Sections 279 and 304-A of the Indian Penal Code and vide order of the even date he was sentenced to undergo rigorous imprisonment for a period of six months for offence under Section 279 of the Indian Penal Code and as regards offence under Section 304A IPC, he was sentenced to undergo rigorous imprisonment for a period of 2 years. Both the substantive sentences were ordered to run concurrently.

Briefly stated the facts of the case as per prosecution story are that on 27.2.2009, a police party from Police Station Mehna, District Moga headed by ASI Inderjit Singh was present at Bus stand in connection with patrolling, where complainant Jagsir Singh came and got his statement recorded contending therein that he is resident of village Patti Bhag Singh and is an agriculturist by avocation and that on the said day he along with Jagsir Singh son of Mohan was going on Scooter bearing registration No. PB-25-A-5569 returning to village Galab Kalan Patti Baghu Ki from Moga. As a matter of fact, he (complainant) was driving the scooter on which Jagsir Singh was pillion riding. One Harjit Singh, nephew of the complainant was driving another scooter bearing registration no. PB-25-A-5573. At about 4.30 P.M. when they reached near Samra Kanda, Ajitwal, District Moga, Harjit Singh was going ahead on his scooter. He was driving on his left hand side and then a canter bearing registration no. PB-07-P-0850 driven by accused Rampal Singh alias Iqbal Singh in a rash and negligent manner at a very high speed came and struck the Scooter of Harjit Singh and as a result Harjit Singh fell down and suffered multiple injuries. While they were busy in taking care of Harjit Singh, accused canter driver sped away. However, on being enquired his name came to be known as Rampal Singh alias Iqbal Singh son of Gurmail Singh, resident of village Smalsar, Tehsil Bagha Purana, District Moga.

After signing of the statement in Punjabi by the complainant, the investigating officer appended his endorsement below and ruqa was sent to Police Station which formed basis of registration of formal F.I.R..

Thereafter the case was investigated. The investigating officer

went to the spot, prepared rough site plan of the place of accident and recorded statements of witnesses. Accused was arrested in this case and released on bail.

After completion of investigation and other formalities challan against him was prepared and filed in the Court of JMIC Moga.

On presentation of the Challan, copies of documents were supplied to the accused free of cost as per Section 207 Cr.P.C.

Finding a prima facie case, charge for offences, under Sections 279, 304-A, 427 of the Indian Penal Code and Section 188 of the Motor Vehicles Act was framed against the accused, to which he pleaded not guilty and claimed trial.

During the course of its evidence, prosecution examined complainant Jagsir Singh as PW1, ASI Inderjit Singh, Investigating Officer as PW2, Suresh Kumar-photographer as PW3, Vikram Pal, Clerk of SDM Office, Jagraon as PW4, HC Sohan Singh was given up unnecessary witness by the APP.

Since the prosecution failed to conclude its evidence despite availing several opportunities, the same was closed by the Court vide order dated 14.7.2015.

Statement of accused was recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing in prosecution evidence were put to him but he denied the same pleading innocence and false implication by the police in conspiracy with the complainant. Accused did not examine any witness in his defence despite availing several opportunities.

After hearing arguments, learned trial Magistrate convicted and sentenced the accused as mentioned supra.

Feeling aggrieved by the judgment of his conviction and sentence, the accused approached the Court of Sessions by filing an appeal. However, he was unsuccessful there inasmuch as appeal was dismissed vide judgment dated 13.10.2016 by Additional Sessions Judge, Moga and he was taken into custody on that very date to undergo the sentence awarded to him by the trial Court.

He was still dissatisfied and he has approached this Court by way of filing Criminal Revision Petition, notice of which was given to the State.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

At the very outset, learned counsel for the Revision petitioner has submitted that he does not challenge the impugned judgments as regards the conviction part but has got submissions to make regarding the sentence part. He submits that accused is a poor person, sole bread winner of his family and first offender; he has already undergone more than 1 year and 3 months out of total substantial sentence of two years awarded to him, as such leniency be shown to him.

Though State counsel has opposed the request, but I find that considering the antecedents of the petitioner inasmuch as no previous conviction is alleged or proved against him and the circumstances explained by learned counsel for the revision petitioner, ends of justice shall be adequately met if he is sentenced to imprisonment already undergone by

him in this case. Accordingly, the impugned judgments are upheld as regards the conviction part, whereas regarding the sentence part those are modified inasmuch as petitioner is sentenced to imprisonment already undergone by him in this case.

With such modification, the Criminal Revision Petition is allowed. Petitioner Rampal Singh alias Iqbal Singh is stated to be in jail in this case. So he is ordered to be released immediately, if his custody is not required in connection with any other case.

(H.S. MADAAN)
JUDGE

December 05, 2017

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No