

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

CRR No.1844 of 2017 (O&M).

Decided on:-July 26, 2018.

Balwinder Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. Rapton, Advocate
 for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 06.05.2017 passed by learned Additional Sessions Judge, Bathinda whereby his appeal against the judgment of conviction and order of sentence dated 03.11.2015 passed by learned Judicial Magistrate 1st Class, Phul, was partly allowed.

Briefly stated, FIR No.85 dated 15.12.2013 under Sections 279, 427 and 304-A IPC was registered against the petitioner-accused at Police Station Balianwali with the allegations that on 15.12.2013, complainant Kulwinder Singh had gone to the fields to obtain fodder. His father Sukhdev Singh told him that he had to come early and after saying this, his father sat on the cycle and had gone ahead of him. At about 11.30 A.M., when Sukhdev Singh was just to move on a drain and the complainant was about 10 Karams

behind his father, a tralla bearing registration No.PB-03AF-0982 being driven by its driver i.e. the petitioner-accused, in a rash and negligent manner and at a high speed, came from the side of Maur and ran over the bicycle of Sukhdev Singh. After stopping the tralla, its driver fled away from the spot. Injured Sukhdev Singh was got admitted to Civil Hospital, Rampura, where he succumbed to his injuries.

The investigation was conducted by the police. The petitioner-accused was arrested and produced in the Court. Statements of witnesses were recorded and after completion of investigation, Challan was filed in the Court.

The copy of Challan as envisaged under Section 207 Cr.PC was supplied to the petitioner-accused. On finding a prima facie case against the petitioner, he was charge-sheeted under Sections 279, 427 and 304-A IPC, to which he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment and order dated 03.11.2015 held the petitioner guilty for the commission of offence punishable under Sections 279, 427 and 304-A IPC and sentenced him as under:

<u>Offence</u>	<u>Sentence</u>
Under Section 279 IPC	Simple imprisonment for three months and fine of Rs.100/- and in default thereof, to further undergo simple imprisonment for 10 days.
Under Section 427 IPC	Simple imprisonment for six months and fine of Rs.500/- and in default thereof, to further undergo simple imprisonment for 15 days.
Under Section 304-A IPC	Rigorous imprisonment for two years and fine of Rs.1000/- and in default thereof, to

further undergo simple imprisonment for two months.

It was, however, ordered that all the substantive sentences of imprisonment shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 06.05.2017 passed by learned Additional Sessions Judge, Bathinda, appeal of the petitioner qua the offence under Sections 279 and 304-A IPC was dismissed, whereas the appeal qua the offence under Section 427 IPC was accepted.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

At the outset, learned counsel for the petitioner has not challenged the conviction of the petitioner and confined his submissions only for a lenient view regarding quantum of sentence. He has further contended that apart from the fact that the victim's family has duly been compensated by the Motor Accident Claims Tribunal, whereby an award of Rs.6 lakh has been granted to the family of the deceased as compensation, the family of the petitioner consists of one daughter and one son. The son of petitioner is 90% disabled and the condition of his family is very pathetic. In support of his contention, he has also produced a copy of Disability Certificate of Mental Retardation issued by the Civil Hospital , Bathinda, which is taken on record. Fresh power of attorney filed on behalf of the petitioner in Court is also taken on record.

He has further contended that the petitioner has been suffering the agony of criminal proceedings since 15.12.2013 i.e. the date of registration of the FIR in question. As against the awarded sentence of two years, the petitioner has already undergone imprisonment for more than 1 year and 2 months including remission. Thus, he has prayed that the sentence of the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel has not disputed the custody of the petitioner, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner. However, he states that there is no other case against the petitioner. Custody certificate filed by learned State Counsel in Court, is taken on record.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 279 and 304-A IPC. The appellate Court has also dismissed his appeal qua the offence under Sections 279 and 304-A IPC. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as against the awarded sentence of two years, the petitioner has already

undergone imprisonment for a period of 1 year 2 months and 29 days including remission. He is a first time offender and there is no other case pending against him. He has been facing the agony of criminal proceedings since 15.12.2013 i.e. the date when the FIR in question was registered against him. Therefore, considering the aforesaid peculiar facts and circumstances, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

Ordered accordingly.

Perusal of the order of sentence dated 03.11.2015 passed by learned trial Court shows that the fine as imposed by the trial Court was paid by the petitioner. Therefore, the petitioner be released forthwith, if not required in any other case.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

July 26, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No