

Sr. No.250

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

**CRR No.3032 of 2017(O&M)
Date of decision:30.07.2018**

Juned

.....Petitioner

versus

State of Haryana

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Arjun Attri, Advocate
for the petitioner.

Mr. Surinder Singh, AAG, Haryana.

Rajbir Sehrawat, J(Oral)

This is a revision petition arising from an accident which occurred on 22.07.2014. FIR No.377 dated 22.07.2014 under Sections 279,304-A of IPC and Section 181 of the Motor Vehicles Act, 1988 was registered at Police Station City Palwal on the statement of Ravinder son of Udai Pal in which he has stated that on that day he along with his cousin brother Satpal has come from his village to Palwal to buy mosquitoes mats, on their motor-cycle bearing Registration No.HR-52C-1018. He got down from the motor-cycle near Agra Chowk and went to a nearby shop to buy the articles; whereas his cousin brother Satpal was standing on the corner of the road along with the motor cycle. While the complainant was coming back after buying articles at about 12:30 pm; then he saw a truck bearing Registration No.HR-73-4696; being driven rashly and negligently; came at a high speed and hit the motor-cycle on which Satpal was sitting. Due to this accident Satpal fell on the road and ultimately succumbed to the injuries.

On the above said complaint the present petitioner, being driver of the truck in question, was prosecuted under Sections 279 and 304-A IPC. After completion of the trial, the Trial Court convicted the present petitioner and sentenced him with rigorous imprisonment for a period of 06 months under Section 279 IPC and rigorous imprisonment for a period of 02 years under Section 304-A IPC alongwith the sentence of fine and imprisonment in default of payment of fine.

Challenging this judgment, the petitioner had filed appeal before the Court of Sessions Judge, Palwal. However, the Appellate Court dismissed the appeal vide judgment dated 05.08.2017. This judgment of the Appellate Court has been challenged by the petitioner through the present revision petition.

During the course of hearing, learned counsel for the petitioner had restricted his prayer only qua the quantum of sentence; as is reflected in the Order dated 23.04.2018; passed by this Court. Therefore, notice of motion was issued in this case; limited to the question of sentence alone.

Learned counsel for the petitioner has submitted that the petitioner has already undergone the sentence of more than 11 months out of the total sentence of 02 years. It is further submitted that petitioner is a poor person. He is the only earning member of the family. Besides this he has aged and ailing mother at his home. It is further contended that leniency be shown in view of the fact that he petitioner is not a previous convict.

Learned State counsel has filed the custody certificate of the petitioner which shows that the petitioner has undergone the actual sentence of 11 months and 23 days. The custody certificate further shows that the petitioner has maintained good behaviour during the custody period.

Therefore, the petitioner has earned remission of 02 months and 20 days during this period of about 01 year. Hence the petitioner has undergone a total sentence of 01 year 02 months and 13 days.

Though the petitioner has been convicted for offence reflecting negligence on his part; which resulted into the accident, however, it has also come on record that the petitioner has maintained good conduct during the period of custody. The petitioner is stated to be the only earning member of the family and is having aged parents in the family. There is nothing on record to controvert these submissions of the petitioner. The fact that the petitioner is not a previous convict is confirmed by the custody certificate of the petitioner as well. Hence the sentence of the petitioner can be suitably reduced. Since the petitioner has already undergone more than half of the sentence, therefore, it would be justified if the sentence of the petitioner is reduced to the sentence already undergone by him.

In view of the above, the present petition is partly allowed. The sentence of the petitioner is ordered to be reduced to the period already undergone by him. Let him be released from the custody accordingly.

30th July, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*