

S.No.230

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

CRR No.3929 of 2017 (O&M)

Date of Decision:18.09.2018

Shiv Raj Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. AG, Punjab.

Rajbir Sehrawat, J.(Oral)

This is a petition challenging the order dated 02.08.2017 passed by Additional Sessions Judge, Jalandhar, whereby the appeal against the judgment of conviction and order of sentence, filed by the present petitioner in case arising from FIR No.79 dated 29.06.2010 registered under Section 279/304-A IPC at Police Station Division No.2, Jalandhar, was dismissed and the judgment of conviction and order of sentence passed by trial Court against the present petitioner; was upheld by the Lower Appellate Court.

At the outset, counsel for the petitioner has submitted that since the petitioner has already undergone about one year and four months of sentence, out of the total sentence of two years, therefore, he has been instructed not to press the present petition qua the conviction. His prayer is that the present petition be restricted to quantum of sentence only.

The brief facts of this case; which has led to the conviction of the petitioner; are that on 29.06.2010, the complainant Inderjeet Singh got

recorded his statement with the Police that on 29.06.2010, at about 6:10

P.M., he along with his mother was going on his motor-cycle bearing registration No.PB-08-BH-9258 to Village Nagra. When they had reached ahead Tagore Hospital from Kapurthala Chowk; then a bus bearing registration No.PB-07-U-8258, which was being driven by the present petitioner; in the rash and negligent manner; came and hit the motor-cycle being driven by the complainant. With the impact of the accident, the complainant and his mother fell on the road and the front tyre of the bus ran over the body of the mother of the complainant. The complainant had further alleged that he had also received minor injuries. On the basis of this statement, the Police case was registered.

The prosecution led its evidence and succeeded in proving the offence against the present petitioner. Accordingly, the petitioner was convicted under Section 304-A and 279 of Indian Penal Code. The petitioner was sentenced with imprisonment of two years under Section 304-A IPC along with fine and for an imprisonment for a period of six months with fine under Section 279 IPC.

The petitioner had challenged that conviction and sentence before the Lower Appellate Court. However, the appeal was also dismissed. Accordingly, the present revision petition has been filed.

While arguing the case, counsel for the petitioner repeated his submissions that the petition be considered for reduction of sentence. However, for limited purpose, to substantiate the circumstances for the lesser punishment, counsel for the petitioner has pointed out that it has come on record that the speed of the bus of the petitioner was 20 to 30 kms per hour. It is further contended that the petitioner had not been negligent in

driving at that time. It was a sheer accident. Counsel also contends that in fact it was a place where there were many persons and the accident in question has taken despite all precautions having been taken by the petitioner. Therefore, lenient view deserves to be taken. Counsel further submits that the petitioner has been proved on record to be the professional driver on the bus. It is further submitted that the petitioner is the sole bread earner of the family . There are minor children in the family. The petitioner is the first offender. There is no other case against the petitioner. Counsel for the petitioner also submits that the petitioner has already undergone one year and four months out of two sentence of two years, which has sufficiently punished the petitioner.

Counsel for the State contends that the petitioner has been convicted for a road accident. The incidents of the accidents due to careless driving are increasing day by day. Therefore, no lenient view should be taken. Counsel for the State has produced the custody certificate of the petitioner, which shows that the petitioner has undergone one year, four months and twenty three days of sentence out of total sentence of two years. However, no other case is pointed out as pending or decided against the petitioner.

Having heard learned counsel for the parties, this Court is of the considered opinion that the arguments raised by counsel for the petitioner deserve acceptance. The custody certificate placed on record by the State shows that the petitioner has already undergone substantial part of the sentence. The custody certificate further shows that even while in Jail, the petitioner has maintained good conduct. Resultantly, the petitioner has

earned remissions of three months and fifteen days during imprisonment.

This reflects upon the reformatory nature of the petitioner. Another fact which deserves to be noted is that the petitioner is the first offender, which fact is not disputed even by the State. In such a situation, where the petitioner is the first offender and he has shown reformatory tendency, then it would not be unjustified to consider him for reduction in his sentence. The Court finds that the sentence of one year four months and twenty three days, which the petitioner has already undergone would be sufficient in this case. Accordingly, the sentence imposed upon the petitioner deserves to be reduced to the period he has already undergone.

In view of the above, the present petition is partly allowed. While maintaining the order of conviction, the sentence imposed upon the petitioner is ordered to be reduced to the sentence already undergone by the petitioner. He may be released from Jail forthwith, if not required in any other case.

Disposed of.

September 18, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No