

S.No.230

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

CRR No.3959 of 2017 (O&M)

Date of Decision:14.12.2018

Kulwant SinghPetitioner

Vs.

State of Punjab and othersRespondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. K.S. Aulakh, DAG, Punjab.

None for respondents No.2 and 3.

Rajbir Sehrawat, J.(Oral)

This is a petition for challenging the judgment dated 04.09.2017 passed by Additional Sessions Judge, Gurdaspur, vide which the appeal filed by the petitioner was dismissed and the judgment of conviction and order of sentence dated 11.04.2017, passed by Judicial Magistrate, Ist Class, Gurdaspur, whereby the petitioner was convicted under Section 279/304-A IPC and was sentenced to undergo two years of rigorous imprisonment under Section 304-A IPC with fine and six months of rigorous imprisonment under Section 279 IPC along with fine, was upheld.

The brief facts giving rise to the present case are that the complaint was made by one Raman Kumar to the effect that he is running tea shop in Main Bazar, Gurdaspur. On 20.01.2016, he along with his brother Ajay Kumar reached at Kahnuwan Chowk, Gurdaspur, from Dhariwal and after alighting from the Auto Rickshaw, they were going towards their home. At that point of time, one bus bearing registration

No.PB-02-AB-9977 belonging to Gill Bus Service, being driven by the petitioner at a very high speed and in a rash and negligent manner came there; without blowing any horn; and ran over the brother of the complainant. Due to the impact, the deceased Ajay Kumar succumbed to the injuries suffered in the accident.

The petitioner was prosecuted for the above said offences. The prosecution proved the case against the petitioner. The petitioner challenged the order of conviction and sentence before lower Appellate court. However, even that was dismissed. That is how the present revision petition has been filed before this Court.

At the outset, counsel for the petitioner had submitted that since the petitioner has already completed sentence of one year three months and twenty six days, therefore, he has the instructions to submit that the present petition be restricted only qua sentence. Accordingly, the present petition has been pressed by the counsel for the petitioner only qua prayer for reducing the sentence to the period already undergone by the petitioner.

To substantiate his arguments, qua reduction of sentence, learned counsel for the petitioner has submitted that the petitioner is of 40 years of age, therefore, he is deep down with responsibilities of the family life. The petitioner is having two minor children. He is not involved in any case of any kind. It is further submitted that even if the petitioner is taken to be involved in the case, then also, the petitioner has learnt sufficient lesson and, therefore, he has maintained complete good behaviour while in jail. Even from the jail authorities, there is no complaint of any kind against the petitioner. Hence, the petitioner should be given a chance to join the main

stream of life once again.

On the other hand, learned counsel for the State, submits that the offence committed by the negligence of the petitioner is serious one. One life has been lost in the case. The petitioner has already been shown leniency by awarding sentence of only two years to him. Learned State Counsel has also produced the custody certificate of the petitioner; which shows that the petitioner has undergone one year and fifteen days of actual sentence. Besides this, the petitioner has also earned remission of three months and eleven days. The total sentence of one year, three months and twenty six days has been completed by him. However, the State Counsel has submitted that the petitioner should be made to complete the remaining sentence as well.

Having heard learned counsel for the parties, this Court finds substance in the arguments raised by learned counsel for the petitioner. Accident being an accident, is an unfortunate incident. However, the fact remains that the petitioner has already completed more than one year and three months of sentence. During the imprisonment as well, the petitioner has shown sufficient tendency to reform himself. Accordingly, even during the short incarceration in the jail, the petitioner has earned as much remissions as of three months and eleven days. Admittedly, there is no complaint from the jail authorities as well. The petitioner has also completed a substantial part of the sentence. There is no other case against the petitioner. Therefore, it would not be unjustified if the petitioner is granted another opportunity to join the main stream of the life, by reducing his sentence.

Accordingly, the present petition is partly allowed. While the order of conviction passed by the Court below is upheld, the sentence awarded to the petitioner is reduced to the period already undergone by him.

Accordingly, it is ordered that the petitioner be released from the Jail forthwith, if he is not in custody or not required in any other case.

December 14, 2018

(RAJBIR SEHRAWAT)

renu

JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No