

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

CRR No.1002 of 2018 (O&M).
Decided on:-July 24, 2018.

Gurjit Singh.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

Present:- Mr. R.K. Arya, Advocate
for the petitioner.

Mr. S.P.S. Tinna, Addl. A.G., Punjab.

Mr. R.S. Dhillon, Advocate
for respondents No.2 and 3.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 23.01.2018 passed by learned Additional Sessions Judge, Gurdaspur whereby his appeal against the judgment of conviction and order of sentence dated 23.02.2017 passed by learned Judicial Magistrate 1st Class, Batala, was dismissed.

Briefly stated, FIR No.102 dated 01.09.2011 under Sections 279 and 304-A IPC was registered against the petitioner-accused at Police Station Sri Hargobindpur with the allegations that on 01.09.2011, complainant Palwinder Singh made a statement before the police that at about 11.00 A.M., his minor daughters, namely, Muskan Kaur, aged about 5 years and Simranjit Kaur aged about 2¼ years were going towards Haveli along with mother of

the complainant, namely, Nirmal Kaur. The complainant was about 25-26 Karams behind them. In the meantime, a tractor make Ford-3600, blue-white coloured, being driven by petitioner-accused Gurjit Singh, came from the side of village Phirni and turned immediately at a high speed. Resultantly, the agricultural equipment fixed at the back of the tractor struck against his daughter, namely, Simranjit Kaur and she fell down. Accused Gurjit Singh fled away from the spot along with the tractor. The complainant took her daughter to the hospital, but she succumbed to her injuries.

The investigation was conducted by the police. Rough site plan was prepared. 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 Section 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 dated 23.02.2017 convicted the petitioner for the commission of offence punishable under Section 304-A IPC and vide separate order of the said date, sentenced the petitioner-accused to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1,000/- for commission of offence under Section 304-A IPC. In default of payment of fine, the convict was further ordered to undergo rigorous imprisonment for one month.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 23.01.2018 passed by learned Additional Sessions Judge, Gurdaspur, appeal of the petitioner was dismissed.

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 present revision on merits and confined the submissions only for a lenient view regarding quantum of sentence. He has submitted that as against the awarded sentence of 2 years, the petitioner has already undergone imprisonment for 6 months and 20 days including remission. He is a first time offender and no other case is pending against him.

He has further contended that the matter has been compromised between the parties and the parents of the deceased have adequately been compensated. The petitioner is a poor person and the sole bread earner of his family. Thus, he has prayed that the sentence of imprisonment awarded to the petitioner may be reduced to the period already undergone by him.

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

Learned counsel for respondents No.2 and 3 has accepted the factum of compromise between the parties and has conceded the fact that

respondents No.2 and 3, who are the parents of deceased Simranjit Kaur have adequately been compensated by the petitioner. He has further stated that respondents No.2 and 3 have no objection in case the sentence of imprisonment awarded to the petitioner is reduced to the period already undergone by him. Vakalatnamas filed on behalf of respondents No.2 and 3 separately in Court, are 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 Section 304-A IPC. The appellate Court has also dismissed his appeal. 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, the Hon'ble Supreme Court in a recent judgment in ***State of M.P. Versus Mehtaab 2015(1) RCR (Criminal) 1008*** has held that when the accused was found guilty of causing death by negligence, the High Court was not justified in reducing sentence of imprisonment to the period of 10 days without awarding any compensation to the legal heirs of the deceased. As such, the Apex Court while modifying the order passed by the High Court had held that the order of the High Court can be upheld only with the modification that the

accused will pay compensation to the heirs of the deceased. This judgment was also followed by this Court in ***Criminal Revision No.1761 of 2015 decided on December 07, 2015*** titled as ***Kashmir Singh Versus State of Punjab.***

Similarly, the Hon'ble Supreme Court in ***State of Himachal Pradesh Versus Ram Pal 2015(2) RCR (Criminal) 127*** has observed in paragraph Nos.13 and 14 of the judgment as below:

“13. *It is evident from the facts and circumstances of the case that the respondent has not called in question his conviction. We have before us only challenge to the inadequacy of the sentence in the present appeal filed by the State. Moreover, in an appeal under Article 136 of the Constitution, this Court does not re-appreciate the evidence, in absence of perversity or patent legal error, merely because a different view was also possible. We are thus, not inclined to reopen the correctness of conviction of the respondent and proceed to consider the question of adequacy of the sentence. In our view, the sentence of mere fine of Rs.40,000/- imposed by the High Court is not adequate and proportionate to the offence. We have been informed that a sum of Rs.3,60,000/- has been awarded as compensation by the insurance company to the heirs of the deceased. We are also of the view that where the accused is unable to pay adequate compensation to the victim or his heir, the Court ought to have awarded compensation under Section 357A against the State from the funds available under the Victim Compensation Scheme framed under the said section. This Court has dealt with the issue in Suresh vs. State of Haryana, 2015 (1) RCR (Criminal) 148, Manohar Singh vs. State of Rajasthan & Ors. 2015 (1) RCR (Criminal) 747 and State of M.P. vs. Mehtaab 2015 (1) RCR (Criminal) 1008. Having regard to*

totality of circumstances of the present case, we feel that ends of justice will be served if the accused is required to pay total compensation of Rs.1 lakh and the State to pay a sum of Rs.3 lakhs.

14. *Accordingly, we modify the impugned order passed by the High Court and enhance the compensation to be paid by the respondent accused to Rs.1 lakh to be paid within four months failing which the sentence awarded by the Court of Session shall stand revived. In addition, we direct the State of Himachal Pradesh to pay interim compensation of Rs.3 lakhs. In case the respondent fails to pay any part of the compensation, that part of compensation will also be paid by the State so that the heirs of the victim get total sum of Rs. 4 lakhs towards compensation. The amount already paid may be adjusted.”*

In the present case, as against the awarded sentence of two years, the petitioner has already undergone imprisonment for 6 months and 20 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 01.09.2011 i.e. the date when the FIR in question was registered against him. Therefore, taking into account the protracted trial, antecedents of the petitioner coupled with the fact that the respondents No.2 and 3, who are parents of deceased Simranjit Kaur have adequately been compensated by the petitioner, as well as in the light of the judgments of Hon'ble Supreme Court in ***Mehtaab's case (supra)*** and ***Ram Pal's case (supra)***, 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.

However, there will be no change in the sentence of fine. 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 24, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No