

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

CRR No.1217 of 2018 (O&M).

Decided on:-August 18, 2018.

Davinder Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. B.S. Guliani, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J.

The petitioner has filed the present revision petition against the judgment dated 26.02.2018 passed by learned Additional Sessions Judge, Ferozepur whereby his appeal against the judgment of conviction and order of sentence dated 30.10.2017 passed by learned Judicial Magistrate 1st Class, Zira was dismissed.

Briefly stated, FIR No.181 dated 22.09.2012 under Section 304-A and 427 IPC was registered against the petitioner-accused at Police Station Zira, District Ferozepur at the instance of complainant Balwinder Singh. The complainant in his compliant had stated that on 22.09.2012 at about 09.00 A.M., his son Gurbhej Singh was going to his workshop situated at Talwandi Bhai on his Zen car bearing registration No.DL-2CN-1015. The complainant along with his nephew Darshan Singh was also going to Talwandi Bhai for some work on a motorcycle bearing registration No.PB-

05C-4809. When they reached on the outskirts of village Dhanna Shaheed, a school bus came from the front side, which was being driven rashly and negligently on the wrong side of the road, and directly hit the car of his son. Due to the accident, front part of the car was badly damaged. His son Gurbhej Singh received multiple injuries and was taken to Civil Hospital, Zira, but he succumbed to his injuries on the way.

Investigation was conducted by the police. The petitioner 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. On finding a prima facie case against the petitioner, he was charge-sheeted under Sections 279, 337, 338, 304-A and 427 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 30.10.2017 held the petitioner guilty for the commission of offence punishable under Section 304-A IPC and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of ten days.

Feeling aggrieved, the petitioner filed an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 26.02.2018 passed by learned Additional Sessions Judge, Ferozepur, 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 conviction of the petitioner and confined his submissions only for a lenient view regarding quantum of sentence.

He has further submitted that the legal heirs of deceased Gurbhej Singh were granted compensation of Rs.8,46,000/- by the Motor Accidents Claims Tribunal. He has produced a copy of the order dated May 03, 2017 passed by this Court in **FAO No.7437 of 2014** titled as **Manjeet Kaur and others Versus Davinder Singh and others**, whereby the aforesaid compensation was enhanced to the tune of Rs.2,30,000/- and submitted that in this manner, a total compensation of Rs.10,76,000/- (8,46,000 + 2,30,000) has been awarded to the claimants. The copy of said order is taken on record.

He has contended that as against the awarded sentence of two years, the petitioner has already undergone imprisonment for a period of 5 months and 9 days including remission. He is a first time offender and there is no other criminal case pending against him. He is a poor person and is the sole bread earner of his family. He has been suffering the agony of criminal proceedings since 22.09.2012 i.e. the date of registration of the FIR in question. 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 produced 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 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, as against the awarded sentence of two years, the petitioner has already undergone imprisonment for 5 months and 9 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 22.09.2012 i.e. the date when the FIR in question was registered against him. Further, the legal heirs of deceased Gurbhej Singh have also been granted compensation in MACT proceedings as apparent from the order dated May 03, 2017 passed by this Court in **FAO No.7437 of 2014** titled as **Manjeet Kaur and others Versus Davinder Singh and others** and a total compensation of Rs.10,76,000/- has been awarded to them. Moreover, order dated 04.04.2018 passed by this Court reveals that earlier, the matter was compromised between the parties and a petition i.e. **CRM-M-34500 of 2014** for quashing of the FIR on the basis of compromise was filed. Statements of the parties were also recorded,

but the said petition was withdrawn on account of the law laid down by Hon'ble Supreme Court in **2015 (2) RCR (Criminal) 495** titled as ***State of Punjab Versus Saurabh Bakshi***.

Therefore, taking into account the protracted trial; antecedents of the petitioner; the matter was compromised between the parties; the legal heirs of the deceased have been granted compensation of Rs.10,76,000/- in MACT proceedings and the petitioner has already suffered incarceration for a period of 5 months and 9 days including remission, 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 shall be no change in the sentence of fine.

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

August 18, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No