

S.No.108

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

CRR No.194 of 2018 (O&M)

Date of Decision:07.08.2018

Onkar ChandPetitioner

Vs.

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Gurpreet Singh Sandhu, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. AG, Punjab.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed challenging the order dated 25.10.2017 passed by Additional Session Judge, Bathinda, whereby vide order of conviction and sentence dated 25.02.2016; passed by Judicial Magistrate Ist Class, Bathinda, in a case arising from FIR No.11 dated 01.02.2012, Police Station Nahianwala under Sections 304-A, 279 IPC, the present petitioner was convicted under Sections 279 and 304-A IPC and was sentenced to undergo imprisonment for a period of six months and to pay a fine of Rs.300/- under Section 279 IPC and, further, for rigorous imprisonment for one and half years and to pay a fine of Rs.500/- under Section 304-A IPC.

The prosecution story in brief is that on 31.01.2012, the information was received from the hospital that dead body of Roshan son of

Gurcharan Singh was brought to Civil Hospital. On receiving this information, the Police reached the Civil Hospital where the statement of Chanan Singh was got recorded to the effect that he is working in Punjab Labour, Goniana Mandi. His brother Roshan Singh was also working as a labourer. On 31.01.2012 in the evening, Roshan Singh went to Village Goniana Khurd in a car bearing registration No.PB-45-0025. At about 10:00 P.M., the complainant and his cousin Kaur Singh were going on motor-cycle to Village Balahar Vinju. When they reached near Village Balahar, then a Tralla bearing No.PB-06-K-2897 came in rash and negligent manner at a high speed. The said vehicle struck against the Maruti Car of Rsohan Singh. In this accident, car was damaged and Roshan Singh sustained multiple injuries. The driver of the Tralla fled away from the scene of occurrence. The ambulance was called by the people at the spot and the said Roshan Singh was taken to hospital; where he was declared brought dead. On these allegations, the case was registered against the present petitioner being driver of the offending Tralla.

After trial, the trial Court convicted and sentenced the present petitioner as mentioned above. Challenging that conviction and sentence, the present petitioner had filed appeal before the Additional Sessions Judge, Bathinda. However, that appeal was also declined by the lower Appellate Court. Hence, the present petition has been filed by the petitioner challenging, both the judgments and the orders, passed by the Courts below.

While arguing the case, learned counsel for the petitioner has submitted that the petitioner restricts the present revision to the quantum of sentence only and he is not pressing for challenge to the order of conviction

as such.

It is contended by the counsel that the petitioner is a poor person. He is having six minor children in the family. There is no other male member in the family to look after the minor children and the family. The present petitioner is only earning member in the family. It is further contended that the petitioner has deep remorse for having been involved in the accident. It is further contended that the petitioner has shown reforming himself by the fact that he has earned remissions inside the jail also. The counsel has further contended that out of total sentence of 1 ½ years, the petitioner has already undergone about 10 months of sentence. Still further, there is no other case of similar nature against the petitioner.

On the other hand, learned State Counsel has submitted that the offence under Section 304-A IPC is a serious offence. The Hon'ble Supreme Court has taken a very serious view of the offence under Section 304-A IPC and has gone to the extent of denying even probation to the drivers involved in the accidents. He has produced the custody certificate of the petitioner which shows that the petitioner has undergone actual sentence of eight months and twenty seven days and total sentence undergone including remissions is ten months and seven days as per the custody certificate issued on 23.07.2018.

Be that as it may, the fact remains that there is no other case of similar nature against the petitioner. The petitioner has exhibited some degree of reformation while in custody. The very fact that he has earned remissions and has maintained good conduct during custody shows that the petitioner is on the path of reformation. Still further, keeping in view the

facts and circumstances as coming in the submissions of the counsel for the petitioner, the present revision is partly allowed. The sentence awarded to the petitioner is reduced to the sentence already undergone. The petitioner be released from jail, if not required in any other case.

Disposed of.

August 07, 2018
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(RAJBIR SEHRAWAT)
JUDGE

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