

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2173 of 2018 (O&M)
Date of Decision: 13.12.2018

Ram Narain @ Ram Narayan @ Ram Chander
..... Petitioner

Versus

State of Haryana
..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Sandeep Parkash Chahar, Advocate for the petitioner.

Mr. Manoj K. Sangwan, Deputy Advocate General, Haryana
for the respondent/State.

MAHABIR SINGH SINDHU, J.

Present revision petition has been filed against the impugned judgment dated 09.05.2018, rendered by learned Additional Sessions Judge, Jhajjar, dismissing the appeal filed against the judgment of conviction and order of sentence dated 23.01.2017 and 27.01.2017, respectively, passed by learned Judicial Magistrate 1st Class, Jhajjar, whereby the petitioner was convicted and sentenced in case bearing FIR No.81 dated 16.02.2013, under Sections 279, 337, 338 & 304-A of the Indian Penal Code (*for short 'IPC'*), registered at Police Station Jhajjar in the following terms:-

<i>Under Section(s)</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of payment of fine</i>
279, IPC	Imprisonment for a period of <u>three months</u>	₹ 500/-	Simple imprisonment for <u>four months</u>

<i>Under Section(s)</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of payment of fine</i>
337, IPC	Imprisonment for a period of <u>three months</u>	₹ 500/-	<u>Simple imprisonment for four months</u>
304-A, IPC	Imprisonment for a period of <u>one year and six months</u>	₹ 2000/-	<u>Simple imprisonment for four months</u>

As per the allegations, made in the complaint of Satbir (PW-1) that on 16.02.2013 at about 06:00 AM, when he along with Ashok, Sunil, Vikrant, Sanju, Jagdish, Sarita and Bharti were coming back to their Village in a rented Cruiser Car bearing registration No.HR-61-A-6327, which was being driven by Ram Chander in a rash and negligent manner and on that count, the passengers requested him to drive the said vehicle slowly, but he did not pay any heed. Around 07:00 AM, when they reached near Girawar turn, driver/accused-Ram Chander, while driving the said vehicle on the wrong side of the road in a very rash and negligent manner and at a high speed, hit the said vehicle into a Tata Canter, which was being driven on its side of the road at a normal speed. As a result thereof, nephew-Sagar and grand daughter-Bharti of the complainant passed away in the PGIMS, Rohtak. Police investigated the case and petitioner was arrested in this case on 07.03.2013. After completion of the investigation, report under Section 173 Cr.P.C. was presented and *prima facie*, case under Sections 279, 337 and 304-A, IPC made out against the petitioner. Accordingly, he was charge-sheeted, vide order dated 16.07.2013, to which, he pleaded not guilty and claimed trial.

In order to prove the case, prosecution examined 19 witnesses and also produced documentary evidence.

The entire material was put up before the petitioner/accused under Section 313 Cr.P.C. and he denied all the allegations and claimed innocence, but no evidence was led by him in his defence.

Learned trial Court, after taking into consideration the material available on record, convicted the petitioner in the above mentioned terms. The appeal was preferred, but the same was also dismissed. Hence, the present petition.

This Court, while issuing notice of motion on 02.08.2018, passed the following order:-

“ *Heard.*

Learned counsel for the petitioner submits that accident was not denied but the petitioner had taken the plea that it was caused because the road was slippery due to overnight rain.

Notice of motion.

Notice of the application for suspension of sentence as well.

Record of the Courts below be summoned and list for arguments on 10.10.2018. ”

At the time of hearing, learned Counsel for the petitioner has confined his prayer only for the quantum of sentence and does not press the conviction as the petitioner has already undergone the sentence of 01 year and 06 days out of total sentence of 01 year and 06 months.

It is contended that the petitioner is facing criminal proceedings in this case right from the date of registration of the FIR i.e. 16.02.2013. Also contended that there is no other criminal case pending against the petitioner.

During trial, he was granted bail and never misused the concession of the

same. Further contended that the accident had taken place on account of the slippery road and, therefore, that was beyond his control. Also contended that the petitioner belongs to a poor family and he is the only bread-earner in the family, therefore, a lenient view may be taken for imposition of sentence.

On the other hand, learned State Counsel opposed the submissions made by learned Counsel for the petitioner and prayed for dismissal of petition.

Heard learned Counsel for the parties and perused the record.

The point for consideration in the present petition is as to what should be the quantum of sentence, which may be imposed upon the petitioner in view of the facts and circumstances of the present case?

Undisputedly, petitioner was on bail pending trial and he never misused the concession of the same. He is facing prosecution in this case since 2013 and there is no other criminal case pending against him except the present case. It is also not in dispute that the petitioner has already undergone 01 year custody and is the sole bread earner in the family. Therefore, there is a strong presumption in favour of the petitioner that he has tried to reform himself and returned to the main stream of the Society as a law abiding citizen. The Courts are supposed to take into consideration the facts and circumstances of each case regarding the antecedents of the accused/convict while imposing the sentence and if this parameter is to be applied, then the same goes to in favour of the petitioner. Even otherwise, at this stage, sending the petitioner to undergo remaining part of the sentence in the company of criminals in the prison would be a counter productive

instead of serving any purpose in any manner. Hon'ble Supreme Court also, in the case of '**Major Singh Versus State of Punjab**', 2008(2) Cri. CC 511, reduced the sentence from one and half years to one year in a case under Section 304-A, IPC and thus, the same is fully applicable to the facts of the present case.

Keeping in view the facts and circumstances, discussed hereinabove, this Court is of the opinion that ends of justice would be met in case the sentence, imposed upon the petitioner, is reduced to the period, already undergone by him.

As a result thereof, the petition is partly allowed and conviction of the petitioner, imposed by learned trial Court duly affirmed by learned lower Appellate Court, is upheld and his sentence is reduced to the period, already undergone by him. However, the fine and default clause thereof shall remain intact. The petitioner is directed to pay the fine, if not paid within one month from receiving the certified copy of this order, otherwise learned trial Court is directed to take necessary action in accordance with law.

December 13, 2018

Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes