

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

252

CRR-524-2018 (O&M)

Date of Decision:14.12.2018

Lakhwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

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

Present: Mr. Pranav Chadha, Advocate (Legal Aid Counsel),
for the petitioner.

Mr. Jagmohan Ghumman, D.A.G., Punjab.

HARI PAL VERMA, J.(Oral)

CRM-4953-2018

Prayer in this application filed under Section 5 of the Limitation Act read with Section 482 Cr.P.C. is for condonation of 65 days delay in filing the instant revision petition.

For the reasons mentioned in the application, same is allowed and the delay of 65 days in filing the present revision petition, is condoned.

CRR-524-2018(O&M)

Petitioner has filed the present revision petition against the judgment dated 05.09.2017 passed by learned Additional Sessions Judge, Fazilka, whereby his appeal against the judgment of conviction and order of sentence dated 12.05.2016 passed by learned Judicial Magistrate 1st Class, Abohar, was dismissed.

Briefly stated that on 08.09.2012, one ruqa was received from

the Civil Hospital, Abohar, regarding the death of Hari Ram son of Bhikha Ram and Rashpal son of Tej Singh in accident and injuries to Rahul and Shishpal. Upon this, ASI Joginder Singh along with other police officials reached the Civil Hospital, Abohar, where Ravi Kumar son of Hari Ram, resident of Street No.2, Basant Ngar, Abohar, got his statement recorded that he is a transporter. His father Hari Ram was having one three-wheeler bearing registration No.PB-27-AE-6574. On the date of occurrence, he along with his father and three passengers namely Rashpal Singh, Shishpal sons of Tej Singh and Rahul son of Khalida was going from Abohar to Dhingawali while taking the labour of brick kiln. He was sitting on the backside of the three wheeler. At about 01.30 PM, their three wheeler which was being driven by his father Hari Ram was about to cross Ganganagar bypass chowk, at that time from the side of Malout, one canter bearing registration No.PB11-AP-6193 came at a very high speed and without blowing its horn struck against their three wheeler, due to which, their three wheeler suffered a huge loss. The father of the complainant died at the spot, whereas the remaining passengers also sustained injuries. On seeing this, people gathered there. The canter driver slipped away from the place of occurrence, whose name was later on discovered to be Lakhwinder Singh son of Gurmail Singh. The complainant arranged conveyance and brought his father and other three passengers to the Civil Hospital, Abohar, where Rashpal son of Tej Singh also died. Other injured Shishpal and Rahul were under treatment in the hospital. On the basis of statement of the complainant, FIR was registered against the petitioner in the present case.

Learned Magistrate vide judgment dated 12.05.2016 held the petitioner guilty of offences punishable under Sections 304-A, 279, 337 IPC

and vide separate order of even date sentenced him as under:

Under Sections	<u>Sentence</u>
304-A IPC	Rigorous imprisonment for a period of two years and to pay fine of Rs.500/-. In default of payment of fine, to further undergo rigorous imprisonment for a period of one month.
279 IPC	Rigorous imprisonment for a period of three months.
337 IPC	Rigorous imprisonment for a period of three months.

It was, however, ordered that all the sentences of imprisonment shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 05.09.2017, learned Additional Sessions Judge, Fazilka, dismissed his appeal.

It is in the aforesaid circumstances, the petitioner has filed the present criminal revision.

At the very outset, learned counsel for the petitioner has not challenged the conviction of the petitioner and restricted his submissions only for a lenient view regarding quantum of sentence. He has contended that as against the awarded sentence of two years, the petitioner has already undergone imprisonment for a period of 01 year, 05 months and 06 days including remission.

Learned counsel for the petitioner submits that the petitioner is a first time offender and there is no other 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 08.09.2012 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 offences under Sections 304-A, 279, 337 IPC. The appellate Court has also dismissed his appeal qua these offences. There is no illegality or perversity in the findings given by both the Courts below, which may warrant interference of this Court by invoking its 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 custody certificate so placed on record by learned State counsel shows that as against the awarded sentence of 02 years, the petitioner has already undergone actual imprisonment for a period of 01 year, 05 months and 06 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 08.09.2012 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 he has already suffered incarceration for a period of about 01 year, 05 months and 06 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. Perusal of the order of sentence dated 12.05.2016 passed by learned trial court shows that the fine as imposed by the trial court was paid by the petitioner. Accordingly, 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.

December 14, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No