

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-144-2019

Date of Decision: 25.11.2019

Jarnail Singh @ Bittu

.....Petitioner

Versus

State of Punjab

.....Respondent

Present: Mr. K.S. Dadwal, Advocate, and
Mr. Tarundeep Kumar, Advocate, for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Harnaresh Singh Gill, J.

Challenge in the present petition is to the judgment dated 18.12.2018 passed by the learned Sessions Judge, Jalandhar, whereby while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 24.05.2018 passed by the learned Judicial Magistrate, 1st Class, Jalandhar, has been upheld.

The petitioner was tried for committing the offences under Sections 279, 304-A, 427 IPC. As per the prosecution, on 16.04.2016 at about 9.00 a.m., when the complainant-Ghansham Kumar Yadav, was going to his work on his bicycle from Kapurthala chowk towards Maqsudan chowk and ahead of him, his sister's husband Surinder Yadav was also going on his bicycle; that when they reached workshop chowk, a tipper bearing registration No.PB-07-BG-Temp-9846 being driven by Jarnail Singh (petitioner) in a rash and negligent manner, came from behind at a very fast speed and struck against the bicycle

of Surinder Yadav, due to which Surinder Yadav died at the spot. On the basis of the statement of the complainant, FIR in this case was registered.

On the basis of the evidence led, it stood proved before the learned trial Court that on account of the rash and negligent driving of the petitioner, death of Surinder Yadav, took place. Consequently, the petitioner was convicted under Sections 304-A and 279 IPC, but acquitted under Section 427 IPC. He was, accordingly, sentenced to undergo RI for a period one year under Section 304-A IPC and to pay a fine of Rs.1500/- and, in default of payment of fine, to further undergo simple imprisonment for 15 days and to undergo RI for six months under Section 279 IPC and to pay a fine of Rs.500/- and, in default of payment of fine, to further undergo simple imprisonment for 15 days.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioner preferred an appeal before the learned Sessions Judge, Jalandhar. However, vide order dated 18.12.2018 passed by the learned Additional Sessions Judge, Jalandhar, the appeal was dismissed, thereby affirming the judgment and order passed by the learned trial Court.

Still aggrieved, the petitioner has preferred the present revision petition.

I have heard the learned counsel for the parties and have gone through the case file.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the

offences under Sections 304-A and 279 IPC. Learned counsel for the petitioner could not point out any perversity or illegality in the findings recorded by the Courts below nor could it be disputed by the learned counsel that on account of the rash and negligent driving of the petitioner, death of Surinder Kumar Yadav took place. Thus, in my opinion, in view of the evidence on record, there is no scope for interference in the findings of the Courts below, so far as the conviction part is concerned. Hence, the conviction of the petitioner under Sections 304-A and 279 IPC is upheld.

Faced with this situation, learned counsel for the petitioner confines his prayer to the sentence part. He submits that the occurrence in this case took place on 16.4.2016; that the petitioner has been in custody since the date of dismissal of appeal and that by now the petitioner has undergone 9 months and 9 days out of the total sentence of 1 year. Thus, it is prayed that the sentence imposed upon the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel while opposing the prayer of the learned counsel for the petitioner states that both the Courts below have taken a very lenient view, when a sentence of one year was imposed upon the petitioner. He further states that even on the sentence count, the petitioner does not deserve any indulgence by this Court.

The Hon'ble Supreme Court in State of Punjab Vs. Saurabh Bakshi, 2015(2) RCR (Criminal) 495, while setting aside the order of the High Court, thereby reducing the sentence imposed upon the accused i.e. 1 year to the period already undergone by him i.e. 24, days, awarded the sentence of six months to the accused-respondent therein. It was held as under:-

“17. In the instant case the factum of rash and negligent driving has been established. This court has been constantly noticing the increase in number of road accidents and has also noticed how the vehicle drivers have been totally rash and negligent. It seems to us driving in a drunken state, in a rash and negligent manner or driving with youthful adventurous enthusiasm as if there are no traffic rules or no discipline of law has come to the centre stage.

The protagonists, as we perceive, have lost all respect for law. A man with the means has, in possibility, graduated himself to harbour the idea that he can escape from the substantive sentence by payment of compensation. Neither the law nor the court that implements the law should ever get oblivious of the fact that in such accidents precious lives are lost or the victims who survive are crippled for life which, in a way, worse than death. Such developing of notions is a dangerous phenomenon in an orderly society. Young age cannot be a plea to be accepted in all circumstances. Life to the poor or

the impecunious is as worth living for as it is to the rich and the luxuriously temperamental. Needless to say, the principle of sentencing recognizes the corrective measures but there are occasions when the deterrence is an imperative necessity depending upon the facts of the case. In our opinion, it is a fit case where we are constrained to say that the High Court has been swayed away by the passion of mercy in applying the principle that payment of compensation is a factor for reduction of sentence to 24 days. It is absolutely in the realm of misplaced sympathy. It is, in a way mockery of justice. Because justice is "the crowning glory", "the sovereign mistress" and "queen of virtue" as Cicero had said. Such a crime blights not only the lives of the victims but of many others around them. It ultimately shatters the faith of the public in judicial system. In our view, the sentence of one year as imposed by the trial Magistrate which has been affirmed by the appellate court should be reduced to six months."

As noticed above, the petitioner has already under 9 months and 9 days out of the total substantive sentence imposed upon him. Hence, the prayer of the learned counsel for the petitioner for reducing the petitioner's sentence to the period already undergone, can be considered and allowed in terms of the judgment of the Hon'ble Supreme Court in Saurabh Bakshi's case (supra).

In view of the above, while upholding the conviction of the petitioner under Sections 304-A and 279 IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him. The fine imposed upon the petitioner along with its default clause, is maintained. The petitioner be released forthwith, if not required in any other case.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

25.11.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No