

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 548 of 2009 (O&M)
Date of Decision: 25.9.2019

Ram Kuwar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Raja Sharma, Advocate
for the petitioner.

Ms. Bhavana Gupta, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 13.2.2009, passed by Additional Sessions Judge, Patiala, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 28.1.2008, passed by Judicial Magistrate Ist Class, Samana in case FIR No. 100 dated 13.5.2004 under Sections 279, 338, 427 and 304-A IPC, registered at Police Station Patran, was dismissed.

As per the prosecution case, on 13.5.2004, complainant Bahadar Singh had got recorded his statement that on 10.5.2004, at about 4.15 P.M., he was going to his house from Maharaja Palace. Mewa Singh was going to his village from the side of Bus Stand, Patran on his motor cycle bearing registration No. PB-11A-5014. Meanwhile, a bus of Haryana

Roadways, Jind bearing registration No. HR-56-2461 came from the back side at a high speed and in a rash and negligent manner and struck against the rear side of his motor cycle. As a result of this, Mewa Singh fell down on the road and had received injuries on his head. The bus driver fled away from the spot along with the bus. Faryad Singh son of Gurmej Singh had also witnessed the occurrence. They both brought Mewa Singh to Durga Hospital Patran from where the injured was referred to Rajindra hospital, Patiala after giving the first aid. Because of the serious condition of the injured, he was referred to PGI, Chandigarh from Rajindra Hospital, Patiala, where Mewa Singh succumbed to his injuries. On the basis of the statement of the complainant, the FIR in question was registered.

After completion of investigation and necessary formalities, challan was presented against the petitioner.

Charge was framed against the petitioner under Sections 304-A IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as six witnesses.

In the statement recorded under Section 313 Cr.P.C., the petitioner denied the prosecution case and pleaded false implication. He pleaded that he had been falsely implicated in this case.

Two witnesses had been examined by the petitioner-accused in his defence.

The trial Court vide judgement and order dated 28.1.2008 convicted the petitioner under Section 304-A IPC and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 1000/- and, in default of payment of fine, to further undergo rigorous

imprisonment for two months.

The appeal preferred by the petitioner was dismissed by the Appellate Court vide judgment dated 13.2.2009.

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

I have heard learned counsel for the parties and have also gone through the record of the Courts below, with their able assistance.

Learned counsel for the petitioner has argued that the petitioner had not been driving the bus in question at the time of the alleged accident. He further submits that no identification parade had been conducted and no duty roster had been produced by the prosecution.

Per contra, learned State counsel submits that Ram Mehar, conductor of the bus had stepped into the witness box as DW-4 and stated that the bus in question was involved in the said accident. Moreover, the complainant had no enmity with the petitioner and thus, there is no reason to believe that the petitioner had been falsely implicated in the present case.

After hearing the learned counsel for the petitioner and the learned State counsel, I am not inclined to interfere with the well reasoned judgments and order passed by the Courts below.

It is a case where as a result of the accident caused by the rash and negligent driving of the petitioner, Mewa Singh had died. PW-1 Bahadur Singh and PW-2 Fairiyad Singh had duly identified the petitioner in Court. They deposed that the accident in question had occurred due to the rash and negligent driving of the petitioner. In view of the said fact, I do not find any patent illegality or perversity in the findings recorded by the Courts below. Hence, the conviction of the petitioner as recorded by the Courts

below, is upheld.

Learned counsel for the petitioner has further submitted that the petitioner is 76 years old and keeping in view his old age, a lenient view may be taken. He has relied upon a decision of this Court in ***CRR No. 170 of 2016 titled Om Parkash versus State of Punjab dated 19.3.2019*** and prayed that petitioner may be released on probation.

The judgment referred to by the counsel for the petitioner is clearly distinguishable and, thus, is not applicable to the facts of the present case. However, taking into consideration that the FIR in this case was registered on 13.5.2004 and the fact that the petitioner has been facing the agony of trial for the last 15 years, in my opinion, the ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to six months keeping in view the judgment passed by the Apex Court in ***State of Punjab versus Saurabh Bakshi 2015(2) R.C.R. (Criminal) 495***.

The Hon'ble Supreme Court in ***Saurabh Bakshi***'s case (supra), while setting aside the order of the High Court, thereby reducing the sentence imposed upon the accused i.e. one 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."

Thus, while partly allowing the revision, the sentence awarded under Section 304-A IPC is reduced to six months. There would be no modification in the fine.

The petitioner is on bail. He is directed to surrender before the Court of Chief Judicial Magistrate concerned within 15 days from the date

order be sent to the Courts below.

With the above said modification in the quantum of sentence,
the revision petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

September 25, 2019
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes