

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

329

**Criminal Revision No. 2392 of 2010 (O&M)
Date of Decision : 03.10.2019**

Kanwar Ranjit Singh

... Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sartaj S.Gill, Advocate for the petitioner.

Mrs. Bhavna Gupta, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J.

The present revision petition has arisen out of the judgment dated 16.08.2010 passed by the Additional Sessions Judge, Kapurthala, vide which the appeal filed by the petitioner, challenging the judgment of conviction and order of sentence dated 25.02.2003, passed by the Judicial Magistrate Ist Class, Phagwara, in case FIR No.120 dated 18.12.1995 under Sections 279, 337, 338, 304-A of the Indian Penal Code (for short 'IPC'), registered at Police Station City Phagwara, was dismissed.

As per the prosecution, present case was registered on the statement of Paramjit Kumar that on 18.12.1995, he was going on Scooter from his village to Phagwara and Roop Lal was sitting on the

pillion seat. They saw two ladies namely, Satya Devi and Harnam Kaur @ Namo, riding on rickshaw were ahead of them. At about 10:25 a.m., one maruti car bearing registration No. PB-02-C-5400 came from Jalandhar side being driven by a Sikh gentleman in a rash and negligent manner hit the rickshaw from behind. Resultantly, the rickshaw turned turtle and the ladies had received serious injuries. After hitting the rickshaw, the Driver of the Maruti car lost his control and hit the tea shop of one Nirmal and some persons sitting on the benches had also received injuries. The Driver of the car disclosed his name as Kanwar Ranjit Singh (petitioner).

Both the ladies were taken to the Civil Hospital and in the meantime the Driver of the Maruti car (petitioner) managed to escape from the spot. The Civil Hospital authorities referred two injured ladies namely, Harnam Kaur and Satya Devi to D.H.C. Ludhiana, where they both succumbed to their injuries. Other injured Ashok Kumar also succumbed to his injuries. Accordingly, the FIR was registered.

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

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

In order to prove its case, the prosecution had examined, as many as 13 witnesses.

After taking into consideration the evidence on record, the learned Judicial Magistrate Ist Class, Phagwara vide judgment and order dated 25.03.2003 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.2000/-. In default of payment of fine, he was to further undergo simple imprisonment for a period of one month.

Aggrieved of the said judgment and order, petitioner preferred an appeal which came up for hearing before the Additional Sessions Judge, Kapurthala and the same was dismissed by the Appellate Court vide judgment dated 16.08.2010.

Still aggrieved, the petitioner has preferred the present revision petition before this Court.

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

Learned counsel for the petitioner has argued that the petitioner has been erroneously convicted under Section 304-A IPC as it had not been proved on record that the petitioner was the person who was driving the car at the relevant time. Rather the examination of DW1- Dr. Satinderjit Singh Dhingra shows that on 17.12.1995 and 18.12.1995, petitioner was being medically checked up in his clinic situated at Chawal Mandi, Amritsar.

Learned counsel for the petitioner has further stressed that the courts below have ignored the evidence of Dr. Satinderjit Singh Dhingra (DW1) who had identified the medical slips Ex.DA and Ex.DB which had been proved on record. Even Tarlochan Singh, Ex-Member, Parliament (DW2) had also stepped into the witness box being the classmate of the petitioner and he had stated that on 18.12.1995, the petitioner was not keeping good health and had gone for ECG from Dr. Satinderjit Singh Dhingra.

It has also been argued by learned counsel for the petitioner

that in the present case, the identification parade had not been conducted and two eye-witnesses were relatives of the deceased. As such their evidence cannot be taken into consideration. It has also been argued that the rickshaw puller, who was taking the two ladies had not been examined and could be the best witness to show that he was taking them when the alleged accident took place and was the immediate eye-witness and might have received injuries.

Per contra, learned State counsel has argued that the examination of all the three Doctor witnesses, who had conducted the post mortem on the deceased proved the case regarding the death of Satya Devi, Harnam Kaur and Ashok Kumar. Even in their testimony Paramjit Kumar (PW-4) and Rup Lal (PW5) stated in one voice that petitioner had been driving the car in a rash and negligent manner and hit the rickshaw on which two ladies (since deceased) had been traveling, whereafter the car had lost the control and hit the Tea shop on the road side, where Ashok Kumar (sitting on the Bench) had received serious injuries and later on he succumbed to his injuries in the hospital.

It has been further argued that ASI-Surinder Singh (PW13) Investigating Officer had placed on record all the documents to prove the case. As per the State counsel, a lenient view has already been taken by the courts below because the petitioner has been sentenced merely for one year on the count of the death of three innocent persons and it is thus, argued that the revision is without merits and is liable to be dismissed.

It is a case in which the petitioner had caused accident in which three persons had lost their lives. While driving the Maruti Car, the petitioner hit the rickshaw from the backside resulting into the death of Satya Devi and Harnam Kaur. Thereafter, the car after losing its control hit another person namely, Ashok Kumar sitting on the Bench outside the tea shop, who too died as a result of the injuries suffered by him.

I have also gone through the evidence led by the petitioner in defence especially, the statements of Dr. Satinderjit Singh Dhingra and Dr. Arwinderjit Singh. Dr. Satinderjit Singh Dhingra was not a heart specialist and being MBBS Doctor was running a clinic at Chawal Mandi, Amritsar. Admittedly, he was a family Doctor of the petitioner, as this fact had been admitted by the petitioner in his examination-in-chief and moreover, Doctor Satinderjit Singh Dhingra stated that petitioner had not been sent to the clinic on the reference of any doctor or specialist.

As far as the evidence of Dr. Arwinderjit Singh is concerned, he was stated to have conducted ECG on the petitioner but he did not bring any record to show that on 18.12.1995, he had conducted ECG on the petitioner, even though he admitted that he had been maintaining the register regarding the visit of the patients in his clinic.

The Courts below have rightly considered the evidence on record and have highly drawn the conclusion that it was the petitioner who was driving the Maruti car in the rash and negligent manner which had caused death of three innocent persons.

To my mind the evidence of Dr. Yash Pal (PW1) clearly

proves that Ashok Kumar had died due to the injuries received in the accident on the vital parts of his body. Dr. R.L.Wassan (PW2) had proved the post mortem conducted upon Satya Devi. She too had died due to 'Cranio Cerebral' injury (head injury) and Dr. Rajiv Gupta (PW3) had proved the post mortem of Harnam Kaur, who also died due to the injuries received by her in the accident.

As per the learned counsel for the petitioner the offending vehicle i.e., Maruti car was not owned by the petitioner. This argument will not absolve the petitioner of his liability because he was driving the Maruti car at the relevant time and had caused accident in question. Even if he was not the owner of the car, then also it cannot be carved out that he is not guilty. Paramjit Kumar (PW4) specifically stated that the car was being driven in a zig-zag manner and after hitting the rickshaw from the backside, it had lost its control and hit the Tea stall which caused injuries to another person namely, Ashok Kumar.

Both the Courts below after having scrutinized the evidence on record have rightly convicted the petitioner for the offence under Section 304-A IPC. 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 as recorded by the Courts below, is upheld.

Coming to the sentence part, 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 undergone 4 months and 27 days out of the total substantive sentence imposed upon him. Though, there is a shortfall of one month and three days so as to make the said sentence as six months, yet keeping in view the fact that the deficient period is very short, I deem it appropriate to treat the same as six months.

As the petitioner has undergone a period of 3 months 10 days out of the maximum sentence of one year imposed upon him, therefore, in view of the aforesaid judgment of the Hon’ble Supreme Court, the plea of the learned counsel for the petitioner for reducing the sentence imposed upon the petitioner to the period already undergone by him, cannot be accepted.

Taking into consideration the agony of trial faced by the petitioner for the period of 24 years and further in view of the judgment of the Hon'ble Apex Court in ***Saurabh Bakshi's*** case (supra), the sentence of the petitioner is reduced to six months. The petitioner shall surrender before the trial Court within a period of 15 days from today to undergo the remaining sentence of six months, excluding 3 months and 10 days, already undergone by him.

Revision petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

03.10.2019
pooja saini

Whether speaking/reasoned?
Whether reportable?

Yes/ No
Yes/No