

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2198-2011 (O & M)
Date of Decision: 24.10.2019

Ram Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Narinder Singh, Advocate,
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Harnaresh Singh Gill, J.

Custody certificate dated 24.10.2019 by way of affidavit of Harpreet Singh, PPS, Deputy Superintendent, District Jail, Sangraur, has been filed in the Court today. The same is taken on record.

Challenge in the present petition is to the judgment dated 06.09.2011 passed by the learned Additional Sessions Judge, Sangrur, whereby while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 25.11.2008 passed by the learned Sub Divisional Judicial Magistrate, Malerkotla, has been upheld.

The petitioner was tried for committing the offences under Sections 279 and 304-A IPC. As per the prosecution, on 24.05.2002, Mohammad Rehan (son of the complainant) was hit by a scooter bearing registration No.PB-28-4917, being driven at a high speed by a Hindu gentleman. Later on, the complainant

came to know that name of the driver was Ram Kumar (present petitioner). As a result of the aforesaid, son of the complainant sustained head injuries. The scooterist alongwith his scooter fell down and also sustained head injuries. Mohammad Rehan and the scooterist were removed to the Civil Hospital, Malerkotla, for treatment. But due to the seriousness of the injuries received by Mohammad Rehan, he was initially referred to Rajindera Hospital, Patiala, and subsequently to Arora Neuro Centre, Ludhiana, for treatment where he succumbed to the injuries.

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, Mohammad Rehan, the minor son of the complainant, had received serious injuries and subsequently, he succumbed to the said injuries. Consequently, the petitioner was convicted under Sections 304-A and 279 IPC. He was, accordingly, sentenced to undergo RI for a period of one year and to pay a fine of Rs.200/- under Section 304-A IPC and, in default of payment of fine, to further undergo RI for a period of one month and to undergo RI for four months under Section 279 IPC.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioner preferred an appeal before the learned Sessions Judge, Sangrur. However, vide judgment dated 06.09.2011 passed by the learned Additional Sessions Judge, Sangrur, 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.

At the very outset, the learned counsel appearing for the petitioner has, while confining his prayer to the quantum of sentence, submitted that the FIR in this case was registered on 26.05.2002; that petitioner has been facing the agony of trial for the last 17½ years approximately and that by now, the petitioner has already undergone a period of 01 month and 09 days out of the total sentence of one year. It is, thus, submitted that the substantive sentence imposed upon the petitioner may be reduced to the one already undergone by him.

On the other hand, the learned State counsel has, while controverting the aforesaid submissions, argued that as a result of the rash and negligent driving of the petitioner, the accident in question took place in which Mohammad Rehan, the minor son of the complainant, had suffered serious injuries and subsequently, he had died as a result thereof. The learned State Counsel has further argued that both the Courts below, have appreciated the evidence and facts on record in the right perspective and hence, the findings recorded by the Courts below do not require any interference by this Court.

I have heard learned counsel for the parties and with their able assistance, have gone through the records of the case.

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. Though, the learned

counsel for the petitioner did not lay challenge to the conviction part, yet 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.

While coming to the sentence part, by now, the petitioner has undergone a period of 01 month and 09 days only out of the maximum sentence of one year imposed upon him besides another substantive sentence for lesser period, therefore, 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.

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. 01 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.”

Taking into consideration the agony of trial faced by the petitioner for the period of 17½ years and further in view of the judgment of the Hon'ble Apex Court in **Saurabh Bakshi's** case (supra), in my opinion, the ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to six months.

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 six months. The fine imposed upon the petitioner for the offence under Section 304-A alongwith its default clause, is maintained.

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 the period of 01 month and 09 days already undergone by him.

Copy of this order be sent to the courts below.

Disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

24.10.2019
parveen kumar

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No