

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2551-2011

Date of Decision: 30.09.2019

Ram Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sandeep Arora, Advocate, for the petitioner.

Ms. Bhavna Gupta, Sr. DAG, Punjab.

Harnaresh Singh Gill, J.

Challenge in the present petition is to the judgment dated 18.8.2011 passed by the learned Additional Sessions Judge, Patiala, whereby while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 15.11.2008 passed by the learned Judicial Magistrate, 1st Ist Class, Rajpura, was upheld.

The petitioner was tried for committing the offences under Sections 279, 338 and 304-A IPC. As per the prosecution, on 13.08.2005, a telephonic message was received at Police Station Banur regarding an accident involving a truck, a bus and a car near village Rampur. Thereupon, ASI Sukhdarshan Singh along with the police party reached the spot, but he was informed that the injured had been taken to the Civil Hospital, Rajpura. Accordingly, ASI Sukhdarshan Singh went to the hospital and obtained a written opinion of the Doctor regarding

Varinder Singh son of Narinder Singh as to his fitness to make a statement. The Doctor declared him fit to make the statement. Varinder Singh made a statement that on the date of accident, he along with Rajinder Singh son of Balwant Singh as going in a Maruti Car (Zen) No. PB-11-Aa-2609 from Rajpura to Banur. At about 2.10 p.m., when they reached near petrol pump of village Ram Nagar, then bus No. PB-13N-7625 coming from Zirakpur side and being driven at a high speed, while having overtaken the truck, had collided with the car. Upon this, the Maruti Zen car fell on the left side in the pits and got damaged. They sustained serious injuries. Thereafter, the bus went out of control and further collided with truck No. RJ-13G-3571. The truck turned into pits and the truck further collided with a cacia tree. The cleaner of the truck had also received injuries. With the help of the patrolling party of the police, Rajinder was taken out of the car and was taken to hospital. The said accident had taken place on account of the rash and negligent driving of Ram Singh driver of the bus No. PB-13N-7625. On the basis of the said statement, FIR in the present case was registered. Rajinder Singh injured succumbed to his injuries. Accused-petitioner was arrested on 16.8.2005 and later on released on bail.

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, Rajinder Singh had received serious injuries and subsequently, he succumbed to the said injuries. It was further proved that the involvement of the

vehicles, including the car, in which the complainant and the deceased were travelling stood proved on record. Consequently, the petitioner was convicted under Sections 279 and 304-A IPC, but acquitted under Section 338 IPC. He was, accordingly, sentenced to undergo RI for a period of six months under Section 279 IPC and to pay a fine of Rs.1000/- and, in default of payment of fine to further undergo SI for 30 days and to undergo RI for one year under Section 304-A IPC and, in default of payment of fine, to further undergo SI for 30 days.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioner preferred an appeal before the learned Sessions Judge, Patiala. However, vide judgment dated 18.8.2011 passed by the learned Additional Sessions Judge, Patiala, 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 13.08.2005; that petitioner has been facing the agony of trial for the last 14 years and that by now, the petitioner has already undergone a period of 5 months and 03 days. 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 death of Rajinder Singh took place. 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, 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."

In view of the fact that the petitioner has been facing the agony of protracted trial for the last 14 years and taking into consideration the judgment of the Hon'ble Supreme Court in Saurabh Bakshi's case (supra), the sentence imposed upon the petitioner is reduced to six months, subject to payment of fine of Rs.10,000/- to be deposited with the learned trial Court within a period of two months. The said amount shall be treated as compensation payable to the legal heirs of the deceased-Rajinder Singh. The petitioner shall surrender before the learned trial Court within a period of 15 days from today to undergo his remaining sentence.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

30.09.2019

ds

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No