

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1239-2012
Date of Decision: 29.8.2019

Jaswant Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

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

Mr. H.S. Sullar, DAG, Punjab.

Harnaresh Singh Gill, J.

The petitioner was tried for committing the offences under Sections 283, 337, 338 and 304-A IPC. Vide judgment and order dated 14.10.2011 passed by the learned Sub Divisional Judicial Magistrate, Balachaur, SBS Nagar, while acquitting the petitioner of the charges under Section 337 and 338 IPC, found him guilty for the offences under Sections 283 and 304-A IPC and sentenced to undergo RI for one year under Section 304-A IPC and to pay a fine of Rs.1,000/- and, in default of payment of fine, to further undergo imprisonment for one week, whereas under Section 283 IPC, the petitioner was sentenced to pay a fine of Rs.200/- only and, in default of payment of fine to further undergo imprisonment for one day.

Aggrieved there-against, the petitioner filed an appeal before the learned Sessions Judge, SBS, Nagar. However, vide judgment dated 17.4.2012, the learned Sessions Judge,

dismissed the appeal filed by the petitioner, thereby affirming the judgment and order passed by the learned trial Magistrate.

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

As would emerge from the facts of the case, the FIR in this case was registered on the statement of complainant-Ashok Kumar, stating therein that he had been working as a driver of canter bearing Registration No. PB-090G-9609 belonging to Choice Agro Private Limited, Kapurthala, for the five years past; that on the night of 8.11.2008, when he along with the Cleaner Varinder Kumar, was coming from Kapurthala, then at about 2.00 a.m., in the area of village Jadli, a truck canter bearing Registration No. HR-01-GA-0669 going ahead of them, had suddenly stopped due to which the canter being driven by the complainant struck with the said truck from the rear side; that as a result of the accident, he had suffered multiple injuries; that Varinder Kumar also suffered serious injuries and he died on the spot itself; the complainant was got admitted in the Civil Hospital, Nawanshar; that post mortem of Varinder Kumar was conducted and that the Investigating Officer reached the spot and had also taken both the vehicles into his possession and that the accused was arrested on 10.11.2008. It was thus, alleged that the accident in question took place due to the rash and negligent driving of the petitioner, being the driver of the offending truck.

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 petitioner-Jaswant Singh, death of Varinder Kumar took place and the complainant had also suffered multiple injuries. The factum of death on account of the rash and negligent driving of the petitioner having been proved on case, the learned trial Court, as noticed above, convicted and sentenced the petitioner, accordingly. The appeal filed by the petitioner was also dismissed by the learned appellate Court.

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 9.11.2008 and that the petitioner has been facing the agony of trial for the last 10 years and that by now, the petitioner has already undergone a period of 4 months 27 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 death of Varinder Kumar, took place and apart from the said fact, the complainant had suffered serious injuries. 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 283 and 304-A 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 as recorded by the Courts below, is upheld.

While coming to the sentence part, by now, the petitioner has undergone 4 months 27 days out of his total substantive sentence of one year. Taking into consideration that the FIR in this case was registered on 9.11.2008 and the fact that the petitioner has been facing the agony of trial for the last 10 years, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again, to undergo the remaining sentence. The ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him.

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.

In view of the above, while upholding the conviction of the petitioner under Sections 304-A and 283 IPC, the

substantive sentence imposed upon the petitioner is reduced to the one already undergone by him, but subject to payment of Rs.25,000/- as fine to be paid as compensation to the legal heirs of the deceased –Varinder Kumar. The said amount shall be deposited by the petitioner before the Chief Judicial Magistrate concerned within a period of two months from today, failing which the revision petition shall stand dismissed automatically. Once, such amount is deposited before the learned Chief Judicial Magistrate, the same shall be disbursed to the legal heirs of deceased-Varinder Kumar.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

29.08.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No