

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 600 of 2012 (O&M)
Date of Decision: 30.9.2019

Mange Lal

.....Petitioner

Versus

State of U.T., Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Saurabh Garg, Advocate
for the petitioner.

Mr. Mandeep Sindhu, Advocate for
Mr. Anil Kumar Lamdharia, APP for U.T., Chandigarh.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 3.1.2012, passed by Additional Sessions Judge, Chandigarh, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 2.6.2006, passed by Judicial Magistrate Ist Class, Chandigarh in case FIR No. 126 dated 3.9.1998 under Sections 279, 337, 304-A IPC, registered at Police Station West, Chandigarh, was dismissed.

The brief facts of the present case are that complainant Constable Sat Pal Singh made a statement that on 3.9.1998, at about 6.00 A.M., he along with Second Commando, No. 235 was on duty at Sarangpur Barrier. Meanwhile, a truck bearing registration No. CH-01-Q-9277 (Half Body), being driven by the petitioner in a rash and negligent manner, came from the side of village Mullanpur and crossed the barrier. The truck was loaded with sand and four labourers were sitting on the sand. Due to the over speed, the driver could not control the truck and it turned turtle on the

right side of the road and the labourers sitting on the sand fell on the road and were thrust under the sand. The complainant with the help of other persons had taken out three labourers. The fourth labourer, namely, Zhari Lal was also taken out from the sand and due to his serious condition, he was taken to the hospital where he succumbed to his injuries. The other three labourers, namely, Lal Dev, Ram Narain Manda, and Sat Narain had also received 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 279, 304-A IPC to which he pleaded not guilty and claimed trial.

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

In the statement recorded under Section 313 Cr.P.C., the accused denied the prosecution case and pleaded false implication.

No witness was examined by the accused in his defence.

The trial Court vide judgement and order dated 2.6.2006 convicted and sentenced the petitioner as under:-

<i>Under Sections</i>	<i>Sentence awarded</i>
279 IPC	<i>To pay a fine of Rs. 1000/- and, in default of payment of fine to undergo rigorous imprisonment for 15 days</i>
304-A IPC	<i>To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 2500/- and, in default of payment of fine, to further undergo rigorous imprisonment for three months.</i>

Both the sentences were ordered to run concurrently.

The appeal preferred by the petitioner was dismissed by the Appellate Court vide judgment dated 3.1.2012.

During the course of arguments, counsel for the petitioner has confined his prayer only to the quantum of sentence imposed upon the petitioner.

Learned counsel for petitioner has submitted that the petitioner remained in custody for about 07 months and 14 days and the accident took place in September, 1998 and he has faced the agony of protracted trial for over 21 years. Learned counsel has further submitted that the petitioner is the sole bread winner of the family. The petitioner is not a previous convict. The accident in question was not a willful act on the part of the petitioner. On these premises, learned counsel for the petitioner prays that the substantive sentence imposed upon the petitioner may be reduced to the one already undergone by him.

Learned State counsel has opposed the prayer and submits that the petitioner drove the vehicle in rash and negligent manner and had caused the death of Zhari Ram and the Courts below have already taken a lenient view.

With the able assistance of the learned counsel for the petitioner and the learned State counsel, I have gone through the record of the Courts below.

As the prayer made by the petitioner is restricted only to the sentence, therefore, the findings recorded by the Courts below convicting the petitioner do not call for any interference and the same are accordingly affirmed.

However, the prayer of the learned counsel for reduction of the

substantive sentence of the petitioner to six months in view of the Hon'ble Supreme Court's judgment in ***State of Punjab versus Saurabh Bakshi, 2015 (2) RCR (Criminal), 495***, merits acceptance.

It may be noticed that the petitioner has already undergone 07 months and 14 days out of the total sentence of one year imposed upon him.

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."

Keeping in view of the law laid down by the Hon'ble Supreme Court in **Saurabh Bakshi's** case (supra) and further taking into consideration the fact that the petitioner has been facing the agony of trial for the last more than 21 years, in my opinion, it is a fit case, where the substantive sentence imposed upon the petitioner can be reduced to the period already undergone by him i.e. seven months and 14 days.

In view of the above, while upholding the conviction of the petitioner under Sections 279 and 304-A IPC, the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him.

With the aforesaid order, the revision petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

September 30, 2019
Gurpreet

Whether speaking/reasoned : **Yes**
Whether reportable : **Yes**