

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

CRR No.1218 of 2019 (O&M)
DATE OF DECISION : 25th SEPTEMBER, 2019

Amarjeet Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Ankur Mittal, Advocate and
Mr. Lalit Singla, Advocate for the petitioner.
Mrs. Amarjit Kaur Khurana, DAG, Punjab.

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RAJBIR SEHRAWAT, J. (Oral)

This is a revision petition challenging the judgment dated 01.08.2017 passed by Sub-Divisional Judicial Magistrate, Malerkotla, whereby, the appellant was convicted and sentenced in case FIR No.83 dated 05.09.2015 registered under Sections 279, 304A and 427 IPC at Police Station City-I, Malerkotla and the judgment dated 24.04.2019 passed by Additional Sessions Judge, Sangrur, whereby above said conviction and sentence was upheld.

As recorded in the order dated 20.05.2019; this court had not found any ground for interfering qua conviction of the petitioner. Therefore, the counsel for the petitioner had submitted that the case of the petitioner be considered only qua reduction in sentence or for grant of benefit of probation.

Today the counsel for the petitioner submits that, since the petitioner has already undergone about half of the sentence, therefore, the petition be considered only for reduction in sentence.

In support of his prayer for reduction in sentence, counsel for the petitioner has submitted that the death of the deceased had occurred in this case only because of the unfortunate factual situation.

Although, the petitioner may not have been so vigilant in his driving at the said time, however, facts would show that he was not solely responsible. Furthermore, the conduct of the petitioner at the relevant time would show that he had not run away from the spot. Therefore, at the worst it was a case of an unfortunate accident. It is further submitted by counsel for the petitioner that the petitioner is the sole bread earner of the family. The petitioner is having two sons, both of whom are unmarried. Rather the sons of the petitioner are still studying. The petitioner is the first time offender and there is no other case of any kind against the petitioner. It is further submitted by counsel for the petitioner that the petitioner has undergone a sentence of 05 months and 20 days out of the total maximum sentence of 01 year. This includes the remission of 20 days; as well. Hence, it is clear that even while in custody, the petitioner has maintained good behaviour. Therefore, the sentence imposed upon the petitioner be reduced to the sentence already undergone by him and the petitioner be granted opportunity to lead the normal life.

On the other hand, counsel for the State has produced the custody certificate of the petitioner. However, it is submitted that the petitioner has caused death of an innocent person by his negligence. The trial court has already shown leniency in awarding sentence to the petitioner. Therefore, the petitioner does not deserve any more sympathy in the matter of sentence. However, the custody certificate, produced by the State counsel, shows that the petitioner has undergone 5 months and 20 days, including a remission of 20 days. The custody certificate does not show any other case of any kind against the petitioner.

Having heard learned counsel for the parties, this court found substance in the argument of learned counsel for the petitioner. No

doubt, a life has been lost in this unfortunate accident. However, for the purpose of sentence, the accident being an accident, has to be taken as an act of providence; unless conduct of the petitioner is shown to be extremely negligent at the time of accident; and abject brazen after the accident. However, as is coming from the facts, the petitioner had not abandoned the deceased at the relevant time. Moreover, the facts of the case show that the petitioner may not be solely responsible for the accident. Therefore, the petitioner can be extended lenient view in the matter of sentence.

Still further, the facts on record show that the petitioner has undergone substantial part of the sentence. It has also come on record that the petitioner has maintained good behaviour even during the period of custody, leading him to earn the remissions from the jail authorities. Therefore, it is clear that the petitioner is on the course of correction. The family situation of the petitioner also shows that the petitioner is deep down in the family responsibilities. Hence, it would not be unjustified to grant one more opportunity to the petitioner to join the main stream of the social life. Accordingly, it would not be unjustified if the petitioner is granted some concession in the matter of sentence and the same is reduced to the period of sentence already undergone by him, as is prayed by the counsel for the petitioner.

Accordingly, the present revision petition is partly allowed. The order of sentence dated 01.08.2017 passed Sub Divisional Judicial Magistrate, Malerkotla, and the judgment dated 24.04.2019 passed by Additional Sessions Judge, Sangrur are modified and it is ordered that the petitioner be sentenced with imprisonment to the period of sentence already undergone by him.

In view of the above, let the petitioner be released from the custody forthwith, if he is not required in connection with any other case.

25th September, 2019
'raj'

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No