

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 2374 of 2014
Date of Decision: 27.2.2019

Brij Mohan

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. S.S.Rana, Advocate,
Mr. Sarvesh Kumar Gupta, Advocate and
Mr. Akshay Rana, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

None for respondents No. 2 and 4.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 16.5.2014, passed by Additional Sessions Judge, Shaheed Bhagat Singh Nagar, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 6.12.2013, passed by Judicial Magistrate, Ist Class, SBS Nagar in case FIR No. 192 dated 1.8.2007 under Sections 279, 304-A IPC, registered at Police Station Banga, was dismissed.

The brief facts of the present case are that complainant Rajesh Kumar Makkar had made a statement on 1.8.2007 that he along with his brother Parmodh Kumar and friend Vijay Kumar were going for morning walk and his brother Parmodh Kumar was going ahead of him. At about

6.00 A.M., when they reached near Bus Stop Khatkar Kalan, one car bearing No. CH-03-R-0814, driven by petitioner-Brij Mohan, came from Banga side. The driver brought the car in question on the wrong side of the road in rash and negligent manner and struck his brother Parmodh Kumar Makkar and due to the injuries, his brother died at the spot. The driver of the car fled away from the spot after leaving the vehicle. The dead body was brought to Civil Hospital, Banga after arranging the vehicle. On the basis of the statement of the complaint, the FIR in question was registered.

After completion of investigation and necessary formalities, challan was presented against the petitioner.

Charge was framed against the petitioners under Sections 279, 304-A IPC to he pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined 7 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 6.12.2013 convicted and sentenced the petitioner as under:-

<i>Under Sections</i>	<i>Sentence awarded</i>
<i>279 IPC</i>	<i>To undergo rigorous imprisonment for six months.</i>
<i>304-A IPC</i>	<i>To undergo rigorous imprisonment for a period of 304-A IPC for a period of two years and to pay a fine of Rs. 2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for 15 days.</i>

Both the sentences were ordered to run concurrently.

The appeal preferred by the petitioner was dismissed by the

Appellate Court vide judgment dated 16.5.2014.

Learned counsel for petitioner has submitted that the petitioner remained in custody for about 11 months and the accident took place in August, 2007 and he has faced a protracted trial for over 12 years. The counsel further submits that the petitioner is the only earning member in the family and no other accident had taken place after 2007 and it is by chance that the accident had occurred and the sentence may be reduced to already undergone. The counsel also contends that the petitioner is ready to pay some compensation to the family of the deceased.

Vide order dated 11.9.2014, complainant was ordered to be impleaded as party/respondent. Amended memo of parties was placed on record and vide order dated 16.1.2015, LRs of deceased were brought on record and the present revision was admitted on 9.2.2015 but none appeared for the newly added respondents.

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 Parmodh Kumar Makkar 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.

Learned counsel for the petitioner has not raised arguments on the merits of the case and had confined his arguments to the quantum of sentence.

In the present case, the accident took place in 2007. The petitioner has undergone incarceration for a period of about 11 months. The

petitioner has been facing the agony of trial for the last 12 years as the FIR was registered on 1.8.2007. The petitioner has also undertaken to pay some compensation to the family of the deceased. Learned counsel for the petitioner has further contended that during the period of suspension of sentence, the petitioner has not repeated such offence and has shown improvement in his behaviour.

The purpose of criminal law justice is to bring peace, discipline and harmony in the society. An opportunity has also to be given to an erring individual to reform himself. The Co-ordinate Bench of this High Court in case of ***Sakir versus State of Haryana CRR No. 3941 of 2016*** decided on 1.2.2019 has held that sentence awarded to the petitioner is reduced to the period already undergone by him with the condition that he will compensate the family of the deceased for ₹ 50,000/-.

Keeping the entire conspectus into view as the petitioner has already undergone 11 months out of two years of imprisonment, I feel that ends of justice would be met if the sentence awarded to the petitioner is reduced to the period already undergone with a condition that the petitioner would pay ₹ 25,000/- as compensation to the legal heirs of deceased Parmodh Kumar Makkar.

Accordingly, conviction of the petitioner under Sections 279, 304-A IPC is maintained. However, sentence qua imprisonment of the petitioner, is reduced to the period already undergone by him. There shall be no modification in the fine.

The amount of compensation shall be deposited within one month from today with the Chief Judicial Magistrate, concerned, failing which this petition shall be deemed to have been dismissed and the

petitioner would undergo imprisonment as awarded by the Court below.
The said amount of compensation be released to the legal heirs of deceased
Parmodh Kumar Makkar, on identification.

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

(HARNARESH SINGH GILL)
JUDGE

February 27, 2019
Gurpreet

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No