

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No.276 of 2015
Date of Decision: February 01, 2019

Raj Davinder Singh

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

...

PRESENT: - Mr. Naresh Kaushik, Advocate, for the petitioner.

Mr. H.S. Sullar, Deputy Advocate General, Punjab.

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Harnaresh Singh Gill, J

The present petition has been filed by petitioner – Raj Davinder Singh challenging judgment dated 12.01.2015 passed by the Additional Sessions Judge, Bathinda, whereby appeal preferred by him against judgment of conviction and order of sentence dated 15.05.2014 passed by the Additional Chief Judicial Magistrate, Bathinda, in case FIR No.113 dated 25.11.2008 registered at Police Station, Sadar, Bathinda, has been upheld, whereunder he has been convicted under Sections 279, 304-A, 337 IPC and sentenced as under:-

Offender under Section	RI awarded	Fine	In default of payment of fine to further RI for
279 IPC	3 months	₹ 500/-	One month
304-A IPC	1 year	₹ 1000/-	One month
337 IPC	3 months	₹ 500/-	One month

As per the facts of the case, an accident took place on 25.11.2008 involving an Indica car bearing No.PB-46E-0197 which was being driven at high speed in a rash and negligent manner and struck against Baljit Singh, Deepak and Krishan Kumar who were working on the road in order to install poles. As a result of the impact, all the three persons suffered serious injuries and they were admitted in Bharat Brain Hospital, Bathinda, where Baljit Singh, son of complainant, and Deepak Kumar succumbed to injuries. Petitioner was driving the offending car at the time of incident.

Petitioner was put on trial. He was chargesheeted under Sections 304-A, 337, 279 IPC. Parties led their evidence. Statement of accused under Section 313 Cr.P.C. was recorded.

After hearing learned counsel for the parties and appreciating the evidence, trial court vide impugned judgment dated 15.05.2014 convicted and sentenced the petitioner, as detailed in first para of this judgment. Appeal filed by him was also dismissed by the appellate court vide judgment dated 12.01.2015.

Counsel for the petitioner has contended that he does not want to contest the conviction of petitioner. However, a lenient view may be taken so far as sentence part is concerned in view of the fact that petitioner is facing the agony of trial for since the date of registration of FIR i.e. 25.11.2008 and has already undergone five months out of total sentence of one year. Moreover, parties have already compromise the matter. Counsel

for the petitioner has produced copy of order dated 13.12.2010 passed by the Motor Accident Claims Tribunal, Bathinda, in MACT case No.40 of 16.12.2008 titled 'Krishna Devi vs. Rajdevinder Singh' and MACT case No.41 of 16.12.2008 titled 'Paul Kaur vs. Rajdevinder Singh' in order to justify the factum of compromise.

This Court has heard counsel for the parties and gone through the record.

Though, counsel for the petitioner has not argued on the conviction of petitioner, this Court also does not find any irregularity or illegality in the findings recorded by the courts below, which are absolutely in consonance with the settled canons of law.

In this view of the matter, impugned judgments dated 15.05.2014 and 12.01.2015 rendered by the courts below are upheld.

In Sunil vs. State of Punjab, 2014(10) R.C.R. (Criminal) 2479, where conviction had gone unchallenged and prayer was restricted only qua quantum of sentence, this Court observed as under:-

“8. Learned counsel for the petitioner, while highlighting mitigating circumstances, submits that petitioner has faced the mental agony of criminal trial for the last more than nine long years. Petitioner was first offender. He was not found involved in any other case. Further, out of the total sentence awarded to him to undergo rigorous imprisonment of one year, petitioner has already undergone the actual sentence for 06 months and 21 days as on 04.09.2012. He has earned remission for 03 months and 07 days. Thus, the petitioner has already undergone the sentence for about 10 months

including remission period. Learned counsel for the petitioner concluded by submitting that in view of the substantial period having been already undergone by the petitioner out of his total sentence, his sentence deserves to be reduced to the period already undergone by him.

9. Having heard learned counsel for the petitioner and after going through the record of the case, this Court is of the considered opinion that it is just and expedient to reduce the sentence of the petitioner to the period already undergone by him while upholding his conviction.....”

Taking into consideration the totality of facts and circumstances of the case including the facts that petitioner has already undergone for a period of five months out of the awarded sentence of one year; faced the mental agony of trial since the date of registration of FIR i.e. 25.11.2008; he is the only bread earner of family and he not a previous convict, sentence awarded to petitioner is hereby reduced to already undergone by him while upholding his conviction.

Disposed of.

February 01, 2019

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(Harnaresh Singh Gill)
Judge

Whether Speaking/ Reasoned:

Yes

Whether Reportable:

Yes