

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

445

**CRR-3620-2016 (O&M)
Date of Decision: 04.04.2019**

Labh Singh

... Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sanjay Gupta, Advocate for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

HARNARESH SINGH GILL, J.

The present criminal revision is filed against the judgment dated 12.09.2016, passed by Sessions Judge, Shaheed Bhagat Singh Nagar, vide which the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 18.07.2016 passed by Judicial Magistrate Ist Class, Shaheed Bhagat Singh Nagar, in FIR No. 39 dated 22.05.2011, under Sections 283, 337, 338 and 304-A of IPC, Police Station Behram, was partly allowed to the extent of reducing the substantive sentence imposed upon the petitioner under Section 304-A, IPC to one year.

Brief facts of the present case are that three persons namely, Charanjit Kainth, Ajay Singh and Sanjeev Kumar were riding on a motorcycle bearing No. PB-70-9144 make Bajaj Discover. At 11.00 p.m,

when they reached petrol pump near Village Burge Kandali, a truck bearing No. PB-03J-2566 was parked on the highway without the flashers on. Due to this, the motorcycle collided with the offending truck and all the three persons received severe injuries. The injured were shifted to Civil Hospital, Banga by Rajnish Kumar and Mehar Chand after arranging the ambulance. Injured-Charanjit Kainth and Ajay Singh succumbed to their injuries on the way to the hospital, whereas Sanjeev Kumar was admitted in the hospital for treatment. The accident took place due to negligent parking of the truck. Petitioner-Labh Singh, Driver of the truck was tried for the offences under Sections 283, 337, 338 and 304-A IPC. Taking into consideration the evidence on record, petitioner-Labh Singh was convicted and sentenced by the learned trial court, vide judgment and order dated 18.07.2016 as under:-

<i>U/Sec.</i>	<i>Sentence Awarded</i>
304-A of IPC	To undergo rigorous imprisonment for a period of one (1) year and six (6) months, and to pay a fine of Rs.9,000/-. In default of payment of fine, he shall further undergo RI for a period of three months
337 of IPC	To undergo rigorous imprisonment for a period of three (3) months, and to pay a fine of Rs.800/-. In default of payment of fine, he shall further undergo RI for a period of one month.
283 of IPC	To pay fine of Rs.200/-. In default of payment of fine, he shall further undergo RI for a period of one month

All the sentences were ordered to run concurrently.

Against the judgment and order dated 18.07.2016 passed by the trial court, the petitioner preferred an appeal which came up for hearing before the learned Sessions Judge, Shaheed Bhagat Singh Nagar. The learned Sessions Judge, vide judgment dated 12.09.2016 while modifying the judgment of the trial court, reduced the sentence awarded to the petitioner under Section 304-A IPC, to one year.

Still aggrieved, the petitioner has preferred the present revision

petition.

Learned counsel for the petitioner has submitted that truck was parked on the road side at 10.30 p.m, as there was some mechanical defect. The motorcycle bearing No. PB-70-9144 stuck into the truck which caused fatal injuries to Charanjit Singh and Ajay Singh whereas Sanjeev Kumar remained in the hospital for treatment. He has further argued that petitioner has been named only in the statement of PW-9, Varun Mahajan, owner of the truck. Nobody had seen the petitioner while parking the truck nor the identity of the petitioner was disclosed, at any stage. The truck being a stationary, there is no fault of the petitioner. Thus, he prayed for setting aside the judgments passed by the courts below.

Learned counsel for the petitioner has further argued that the petitioner has been facing agony of trial for the last more than 7 years and he is not a previous convict. The petitioner is the sole bread earner of the family who has to look after his old aged parents, wife and small children. It was because of the mechanical defect, the truck was parked on one side of the road. He prays that a lenient view be taken.

Per contra, learned State counsel has argued that in the statement recorded under Section 313 Cr.P.C., the petitioner has not denied that he was employed as a truck driver by Varun Kumar, who had appeared as PW-9. There is no such suggestion on behalf of the petitioner that he was not the driver of the truck, at the time, when accident had occurred. Learned State counsel has further argued that since two lives had been taken away because of wrong parking of the truck, no lenient view is required to be taken and the judgments passed by the courts below, deserve to be upheld.

I have heard learned counsel for the petitioner and learned State

counsel and with their able assistance, have gone through the record of the trial court.

The petitioner has been facing the agony of trial since last 7 years. It may be noticed that as per the custody certificate produced on record, the petitioner has already undergone 2 months and 24 days out of the total substantive sentence of one year imposed upon him. However, the prayer of the learned counsel for the petitioner on quantum of sentence of the petitioner is accepted. Thus, the conviction of the petitioner is upheld.

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."

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 7 years, in my opinion, it is a fit case, where the substantive sentence imposed upon the petitioner can be reduced to the period of six months.

In view of the above, while upholding the conviction of the petitioner under Sections 304-A, 337 and 283 IPC, the substantive sentence imposed upon the petitioner is reduced to the period six months. The

petitioner shall surrender before the Court concerned to undergo his remaining sentence.

Revision Petition is disposed of in the above terms.

04.04.2019
pooja saini

(HARNARESH SINGH GILL)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>Yes</i>