

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1556-2017

Date of Decision: 23.05.2019

Sukhwinder Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. D.S. Kahlon, Advocate, for the petitioner.

Mr. Sarabjit Singh Cheema, A.A.G., Punjab.

Mr. Saurav Arora, Advocate for respondent No.2.

Harnaresh Singh Gill, J.

The petitioner was tried for committing the offence punishable under Sections 304-A and 427 IPC. Vide judgment and order dated 02.06.2016, learned Judicial Magistrate, Ist Class, Jalandhar, while acquitting the petitioner-accused of charge under Section 427 IPC, held him guilty under Section 304-A IPC and sentenced him to undergo RI for two years and to pay a fine of Rs.2000/- and, in default of payment of fine, to further undergo RI for a period of two months.

Aggrieved there-against, the petitioner filed an appeal before the learned Sessions Judge, Jalandhar. Vide judgment dated 16.02.2017, the learned Additional Sessions Judge, Jalandhar, dismissed the appeal filed by the petitioner, thereby affirming the judgment and order passed by the learned trial Magistrate. Still aggrieved, the petitioner has preferred the present revision petition.

As would emerge from the facts of the case, on 29.9.2011, the truck bearing No. RJ-13-G-9517 being driven by the petitioner in a rash and negligent manner, rammed into the auto of Raj Kumar deceased. As a result of the said accident, Raj Kumar, died on the spot. Though, the accused-petitioner ran away from the spot after leaving the truck behind, yet later on he was arrested and his identity was ascertained as Sukhwinder Singh.

The learned trial Court framed two points for determination i.e. i) Whether Raj Kumar son of Gurbachan Lal died on 29.9.2011 in the alleged accident? and ii) Whether the offending vehicle was being driven by accused Sukhwinder Singh in rash and negligent manner and he caused the alleged accident? On both the points, on the basis of evidence led, while holding that the death of Raj Kumar had occurred in the accident caused by the rash and negligent driving of the accused-petitioner, he was held guilty under Section 304-A IPC and sentenced accordingly.

At the very outset, learned counsel appearing for the petitioner, states that without disputing the findings of guilt recorded against the petitioner-accused, he confines his prayer to the quantum of sentence only. Learned counsel contends that in the instant case the alleged occurrence took place on 29.09.2011 and the FIR was registered on the same very date. The petitioner has been facing the agony of protracted trial for the last 8 years. Still further, out of the total sentence of two years, the accused-petitioner has already undergone 1 year 2

months and 10 days. It is, thus, submitted that taking into consideration that the substantial period of sentence has already been undergone by the accused-petitioner, the sentence imposed upon him may reduced to the period already undergone by the petitioner.

Taking into consideration that on account of the rash and negligent driving of the accused-petitioner being the driver of the offending vehicle i.e. truck bearing Registration No. RJ-13-G-9517, death of Raj Kumar took place, no fault could be found with the judgments and order passed by the Courts below. Still further, as noticed above, learned counsel for the petitioner has rightly not disputed the finding of guilt recorded by the Courts below. In view of the said fact, the conviction of the petitioner under Section 304-A IPC is upheld.

Coming to the quantum of sentence, as stated above, the petitioner has already undergone 1 year 2 months and 10 days of actual sentence out of the total sentence of two years. Taking into account that the petitioner has been facing the agony of protracted trial for the last 8 years, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again to undergo the remaining sentence. Rather, ends of justice would be suitably met, if the sentence imposed upon the accused-petitioner is reduced to the period already undergone by him.

In view of the above, while maintaining the conviction of the petitioner under Section 304-A IPC, the sentence imposed upon him is reduced to the period already undergone by him.

However, the amount of fine is enhanced to Rs.25,000/-, excluding the amount of fine already imposed by the trial Court. Such amount shall be treated as compensation to be paid to the legal heir(s) of the deceased. The said amount shall be deposited by the accused-petitioner before the Chief Judicial Magistrate concerned within a period of two months from the receipt of a certified copy of this order, which shall then be paid to the legal heir(s) of the deceased-Raj Kumar. It is made clear that failure to pay the said amount would entail the automatic dismissal of the revision petition without any reference to the Bench.

Disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

23.5.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No