

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3700-2017
Date of Decision: 20.3.2019

Amandeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Perminder Singh Sekhon, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

Harnaresh Singh Gill, J.

Challenge in the present petition is to the judgment dated 2.8.2017 passed by the learned Additional Sessions Judge, Bathinda, whereby while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 29.11.2016 passed by the learned Judicial Magistrate, 1st Class, Bathinda, has been upheld.

The petitioner was tried for committing the offences under Sections 279, 304-A, 337 IPC. As per the prosecution, on 01.11.2009, the petitioner while driving an Alto car bearing registration No. PB-3Q-2412, in a rash and negligent manner, had hit the scooter of complainant Parveen Gautam, bearing registration No. HP-36-7677. The complainant's wife and two sons, who were pillion riders in the said scooter, fell down and suffered injuries on their persons. As a result of the serious injuries received by complainant's son Ridham, his condition

became critical. He was initially admitted in Civil Hospital, Bathinda, but the Doctors there had referred him to Adesh Hospital. As the condition of the injured still remained critical, he was further referred to Medicity Hospital, Ludhiana. But, while the injured was being taken to the said hospital, he breathed his last on the way.

On the basis of the evidence led, it stood proved before the learned trial Court that on account of the rash and negligent driving of the petitioner, Ridham, the minor son of the complainant, had received serious injuries and subsequently, he succumbed to the said injuries. However, it was also found that there was no evidence on record to prove that any person other than the deceased had received any injuries in the accident in question. Consequently, the petitioner was convicted under Sections 304-A and 279 IPC, but acquitted under Section 337 IPC. He was, accordingly, sentenced to undergo RI for a period of two years under Section 304-A IPC and to pay a fine of Rs.2000/- and, in default of payment of fine, to further undergo RI for 15 days and to undergo RI for six months under Section 279 IPC.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioner preferred an appeal before the learned Sessions Judge, Bathinda. However, vide order dated 02.08.2017 passed by the learned Additional Sessions Judge, Bathinda, the appeal was dismissed, thereby affirming the judgment and order passed by the learned trial Court.

Still aggrieved, the petitioner has preferred the present revision petition.

At the very outset, the learned counsel appearing for the petitioner has, while confining his prayer to the quantum of sentence, submitted that the FIR in this case was registered on 02.11.2009; that petitioner has been facing the agony of trial for the last 9 years and that by now, the petitioner has already undergone a period of 5 months 29 days out of the total sentence of two years. It is, thus, submitted that the substantive sentence imposed upon the petitioner may be reduced to the one already undergone by him.

On the other hand, the learned State counsel has, while controverting the aforesaid submissions, argued that as a result of the rash and negligent driving of the petitioner, the accident in question took place in which Ridham, the minor son of the complainant, had suffered serious injuries and subsequently, he had died as a result thereof. The learned State Counsel has further argued that both the Courts below, have appreciated the evidence and facts on record in the right perspective and hence, the findings recorded by the Courts below do not require any interference by this Court.

I have heard learned counsel for the parties and with their able assistance, have gone through the records of the case.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offences under Sections 304-A and 279 IPC. Though, the learned counsel for the petitioner did not lay challenge to the conviction

part, yet in my opinion, in view of the evidence on record, there is no scope for interference in the findings of the Courts below, so far as the conviction part is concerned. Hence, the conviction of the petitioner under Sections 304-A and 279 IPC is upheld.

While coming to the sentence part, by now, the petitioner has undergone 5 months 29 days out of his total substantive sentence of two years. Taking into consideration that the FIR in this case was registered on 02.11.2009 and the fact that the petitioner has been facing the agony of trial for the last 9 years, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again, to undergo the remaining sentence. The ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him.

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."

As noticed above, the petitioner has already undergone 5 months and 29 days out of the total substantive sentence imposed upon him. Though, there is a shortfall of one day so as to make the said sentence as six months, yet keeping in view the fact that the deficient period is of only one day, I deem it appropriate to treat the same as six months.

In view of the above, while upholding the conviction of the petitioner under Sections 304-A and 279 IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him. The fine imposed upon the petitioner for the offence under Sections 304-A IPC along with its default clause, is maintained.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

20.03.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No