

S.No.231

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

CRR No.1432 of 2018 (O&M)

Date of Decision:21.05.2019

Surinder Pal Singh

.....Petitioner

Vs.

State of Union Territory, Chandigarh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. R.K. Trikha, Advocate for the petitioner.

Mr. Rajiv Vij, Advocate for UT, Chandigarh.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed challenging the judgment/ order dated 20.03.2018 whereby the appeal, filed by the present petitioner against the judgment of conviction under Sections 279 and 304-A IPC, dated 18.01.2016 and the order of sentence of even date, sentencing the petitioner with rigorous imprisonment for two years along with fine of Rs.2,000/- under Section 304-A IPC and with rigorous imprisonment of six months with a fine of Rs.1,000/- under Section 279 IPC, was dismissed.

The brief facts involved in the case are that on 16.08.2012, complainant Karan Singh, got his statement recorded to the effect that he is residing in Sector 35-B, Chandigarh and working in BBMB. On 21.06.2012, he along with his wife; were coming from Bajwara market after shopping. When they were crossing the dividing road of Sector 22/35 from Zebra crossing; then one car bearing registration No.CH-03L-0909 came from the side of Kisan Bhawan Chowk and being driving in a rash and negligent manner. The said car hit the wife of the complainant. As a result, she fell down and suffered injuries. She was taken to PGI through PCR vehicle.

The driver of the car had fled away. The wife of the complainant expired at PGI. On this statement, the FIR was registered against the petitioner under Sections 279 and 304-A IPC.

Learned counsel for the petitioner submits that although the petitioner has a very good case on merits, however, since the petitioner has already undergone a substantial part of sentence, therefore, he has the instructions to restrict the present petition qua quantum of sentence only and not to press the same against the order of conviction; as such. Hence, it is prayed that the present petition be entertained and considered qua quantum of sentence only.

Accordingly, the present petition is considered only qua quantum of sentence imposed upon the petitioner.

While arguing the case, learned counsel for the petitioner has submitted that the petitioner is the first offender. He is not facing any other case of any kind. The petitioner is of 60 years of age. He is the sole bread earner of the family. Still further, it is submitted that the petitioner has been facing the Court proceedings since the year 2012. Therefore, he has already suffered adequately on account of this case. Furthermore, the petitioner has undergone about one and half years of sentence. During the custody as well, the petitioner has maintained absolutely good behaviour. Therefore, the petitioner has already learnt the lesson, for the mistake committed by him, even if the case is taken to be proved against him. Hence, it is submitted that the sentence imposed upon the petitioner be reduced to the period of sentence already undergone by him.

On the other hand, learned counsel for UT, Chandigarh submits

that the negligence of the petitioner has resulted into death of an innocent citizen. Therefore, the petitioner does not deserve any leniency. It is further submitted that the Courts below have already shown leniency while awarding sentence to the petitioner. Hence, the petitioner need to serve the entire sentence imposed upon him. Learned counsel for the UT has also relied upon judgment of the Hon'ble Supreme Court rendered in **State of Madhya Pradesh v. Surendra Singh - 2015 AIR (SC) 398**, to contend that in case of accident cases, the accused should not be left with meager sentence. However, counsel for UT, Chandigarh has also produced the custody certificate of the petitioner; which shows that the petitioner has undergone one year one month and four days of actual sentence and he has earned remissions of four months and ten days. Therefore, the petitioner has undergone a total sentence of one year five months and fourteen days as on 23.04.2019. The custody certificate also does not show any other case against the petitioner.

Having heard learned counsel for the parties and perusing the record, this Court finds substance in the argument of the learned counsel for the petitioner. No doubt, the conduct of the petitioner, which has been proved on record by the prosecution, shows his negligence which has resulted into death of a person, however, the accident, being an accident, can happen to anybody on the road. But for the negligence which the petitioner had exhibited at the relevant time, he has already undergone a sentence of more than one year and six months as of now; besides facing proceedings since the year 2012. The record of the case would also show that while in jail, the petitioner has maintained good behaviour. Therefore,

even the jail authorities have rewarded him with remissions qua the sentence in the case. This aspect also reflects upon the fact that the petitioner appears to have learnt a lesson for the mistake he committed. Therefore, it would not be unjustified if the petitioner is granted some concession in the sentence, so as to enable him to join the main stream of the social life once again. The fact that the Court can place reliance upon the good conduct of the petitioner, is also supported by the fact that there is no other case against the petitioner. Hence, this Court finds it a fit case for reduction of the sentence, as prayed for by learned counsel for the petitioner.

Accordingly, the present petition is partly allowed. While maintaining the order of conviction passed against the petitioner, the orders of awarding sentence to the petitioner, passed by the Courts below, are modified. The sentence imposed upon the petitioner is reduced to the period of sentence already undergone by him.

In view of the above, let the petitioner be released from custody forthwith, if he is not required in connection with any other case.

May 21, 2019**renu****(RAJBIR SEHRAWAT)****JUDGE**

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No