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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2182-2018 (O&M)

Date of Decision : August 30, 2019

Gurpreet Singh alias Rinka Petitioner

Versus

State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present : Mr. Kirpal Singh, Advocate
and Mr. Rahul Bhargava, Advocate,
for the petitioner.

Mr. Ramandeep Sandhu, Sr. Deputy Advocate General,
Punjab, for the respondent-State.

SHEKHER DHAWAN, J.

Present revision petition is directed against the judgment of conviction and order of sentence dated 16.02.2016 passed by learned Judicial Magistrate Ist Class, Malerkotla vide which the petitioner was convicted and sentenced as under:-

Under Section	Sentence	In default
U/s 304-A IPC	to undergo Rigorous Imprisonment for a period of Two Years.	--
U/s 279 IPC	to undergo Rigorous Imprisonment for a period of Two months.	-
U/s 427 IPC	to undergo Rigorous Imprisonment for a period of Six months and to pay fine of Rs.500/-.	To undergo further Imprisonment for a period of One week
U/s 338 IPC	to undergo Rigorous Imprisonment for a period of Six Months.	-

Both the sentences were ordered to run concurrently.

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2. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned Sessions Judge, Sangrur vide judgment dated 30.05.2018.

3. Facts relevant for the purpose of decision of the present revision petition; that a motor vehicular accident took place on 28.8.2010, involving truck bearing No. PB-12M-9790 and Car bearing No. PB-13T-0100. The said truck was being driven by present petitioner. As a result of this accident, Mohd. Dilber had sustained injuries and died on the spot and the car was damaged. The driver of the truck was identified by complainant, Sahib Din and one Shokat Ali. However, thereafter, the petitioner had fled away from the spot. Postmortem examination of the dead body of Mohd. Dilber was got done. After completion of investigation proceedings, challan was presented before the trial Court.

4. During trial, learned trial Court completed various proceedings of trial including framing of charge, recording statements of prosecution witnesses and examination of the accused (petitioner herein) under Section 313 Cr.P.C. After considering the material and evidence available on record, vide judgment dated 16.02.2016, learned trial Court held the petitioner guilty and convicted and sentenced him as detailed in para No.1 above.

5. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned first appellate Court vide judgment dated 30.05.2018.

6. Learned counsel for the petitioner contended that the petitioner has been falsely implicated in this case whereas, it was a case of head-on-

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collusion. The negligence was on the part of the car driver himself. The Courts below have not considered all these facts while recording the judgment of conviction. However, learned counsel for the petitioner contended that the petitioner does not challenge the judgment of conviction passed by learned trial Judge and the order passed by learned Sessions Judge, Sangrur where his appeal was dismissed and a lenient view on the point of sentence be taken because the sentence awarded to the petitioner is Two years *inter alia* under Section 304-A IPC and by now, the petitioner has already undergone actual sentence of One year and Six months, as per custody certificate.

7. Learned State counsel contended that as the petitioner had taken a previous human life because of his rash and negligent driving and it was case of head-on-collision, the Courts below have already taken lenient view on the point of sentence and no further reduction on the point of sentence is called for and the present revision petition be dismissed.

8. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that the prosecution case is based upon the testimony of complainant and eye-witness, who have deposed that the accused was seen while driving his truck in rash and negligent manner and he was identified on the spot and he was identified during trial of the case also. The factum of death of Mohd. Dilber is also not disputed, rather proved on the file. Otherwise also, learned counsel for the petitioner has not challenged the judgment of conviction and as such, no ground is made out for setting aside the judgment of conviction recorded by the Courts below. As such, the present

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revision petition, qua judgment of conviction passed by the Courts below, stands dismissed.

9. As regard to quantum of sentence, this Court is certainly inclined to take a lenient view in this case. The petitioner has already undergone actual sentence of 1 year and 6 months against the awarded sentence of **2 Years**. Apart from that, there is nothing against the present petitioner as per custody certificate dated 29.08.2019 placed on record today. Taking a lenient view on the point of sentence, the order of sentence is modified to the extent that the sentence of petitioner - Gurpreet Singh alias Rinka in this case shall be reduced from 2 years *inter alia* under Section 304-A IPC to the period already undergone by him during the investigation, trial, appellate proceedings and proceedings before this Court. The order regarding payment of fine shall remain the same. The petitioner be set at liberty forthwith in this case, if not required in any other case.

10. Resultantly, the present revision petition stands partly allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

August 30, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes