

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

251

**CRR No.2184 of 2018 (O&M).
Date of Decision: 05.09.2019.**

Khajan Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

Ms. Monika Jalota, Deputy Advocate General, Punjab.

Shekher Dhawan, J.

Present revision petition is directed against the judgment dated 05.04.2018 passed by learned Additional Sessions Judge, Ludhiana, whereby the appeal preferred by the present petitioner against the judgment of conviction and order of sentence dated 03.01.2017 passed by learned Sub Divisional Judicial Magistrate, Khanna, was dismissed.

2. The petitioner was held guilty and was convicted for commission of offence punishable under Sections 279, 304-A and 337 of the Indian Penal Code (for short, 'IPC') in case F.I.R. No.118 dated 21.07.2007 registered under Sections 279, 337, 338, 427, 304-A IPC, at Police Station City, Khanna and was sentenced as under:-

Name of convict	Offence	Sentence Awarded	Fine	In default of payment of fine
Khajan Singh	279 IPC	RI for 06 months	Rs.500/-	RI for fifteen days
	304-A IPC	RI for 02 years	Rs.1500/-	RI for two months
	337 IPC	RI for 06 months	-	-

3. Facts relevant for the purpose of decision of the present revision petition; on 21.07.2007, complainant-Prem Singh (pillian rider) along with one Surinder Singh (driver) was going towards village Kauri on motorcycle bearing registration No.PB-26D-6035 and ahead of them Sanpreet Singh and Banpreet Kaur, grandson and granddaughter of the complainant, were also going on motorcycle No.PB-26D-1331. When they reached near Pal Motor Workshop, a container, being driven by its driver in a rash and negligent manner at a very high speed, came from backside and hit the motorcycle of his grandson, due to which Sanpreet Singh and Banpreet Kaur fell down. Thereafter, Banpreet Kaur was run over by front conductor side tyre of the container and died at the spot whereas Sanpreet Singh received grievous injuries on his head and other parts of body. On the basis of the statement of the complainant, the present F.I.R. was registered.

4. After completion of investigation proceedings, challan was presented before the trial Court.

5. 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, learned trial Court held the petitioner

guilty for commission of offence under Sections 279, 337 and 304-A IPC and convicted him in the manner narrated above, vide judgment of conviction and order of sentence dated 03.01.2017.

6. 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 05.04.2018.

7. At the very outset, learned counsel for the petitioner contended that he does not challenge the judgment of conviction and a lenient view on the point of sentence be taken as the petitioner has already undergone total sentence of 01 year, 10 months and 07 days (including remissions) against the awarded sentence of 02 years, as per the custody certificate dated 05.09.2019.

8. Learned State counsel contended that the petitioner does not deserve any concession regarding sentence and the present revision petition be dismissed.

9. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that both the Courts below have already appreciated the evidence in its perspective manner. As such, the present revision petition, qua judgment of conviction passed by the Court below, stands dismissed.

10. As regard to order of sentence, this Court has certainly considered that a lenient view is to be taken in this case. The petitioner has already undergone total sentence of 01 year, 10 months and 07 days (including remissions) against the awarded sentence of 02 years as per the custody certificate dated 05.09.2019, taking a lenient view on the point of sentence, the order of sentence is modified that the

sentence of petitioner, Khajan Singh in this case shall be reduced to the period he has already undergone while remaining in custody in this case. The petitioner be released from custody in this case, if not required in any other case.

11. Resultantly, the present revision petition stands disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

05.09.2019

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No