

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

CRR-2201-2018 (O&M)
Date of Decision:-16.05.2019

KARAM SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Saurabh Arora, Advocate as
Legal Aid counsel for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

CRM-16284-2019

In view of the reasons mentioned in the application, the same is allowed
and statement of complainant-Munish Kumar is taken on record as
Annexure-A, subject to all just exceptions.

CRR-2201-2018 (O&M)

1. The petitioner has approached this Court assailing judgment dated
12.12.2017 passed by Additional Sessions Judge, Jalandhar whereby his

appeal has been dismissed and conviction for offences punishable under Sections 279 & 304-A of the Indian Penal Code has been upheld.

2. Vide order dated 27.2.2019, notice of motion had been issued to consider the quantum of sentence only.
3. Today learned counsel for the petitioner has drawn the attention of this Court to the testimony of PW-1, Munish Kumar (Annexure A-1) wherein during the course of his cross-examination he has stated that there were in fact three persons riding on the motorcycle and that while he was driving the motorcycle wearing helmet, the pillion riders were his mother and his mother's friend. Learned counsel has submitted that since the complainant was himself "triple-riding" against the rules and apparently could not have effectively controlled the motorcycle, it is apparent that he had also contributed for causing the accident.
4. I have considered aforesaid submission. While contributory negligence cannot be taken as a defence but same can indeed be taken into account to consider the quantum of sentence. In the present case, as per the custody certificate filed today in the Court, the petitioner has already undergone an actual sentence of 1 year, 3 months & 20 days and earned remissions to the tune of 3 months & 19 days. In other words the total sentence including remissions would work out to 1 year, 7 months & 9 days out of imposed sentence of 2 years. The petitioner is not stated to be a previous convict. Bearing in mind the aforesaid facts and circumstances and also that the petitioner is not a previous convict, in my opinion, there is room for reduction of sentence. As such, the substantive sentence of imprisonment as imposed upon the petitioner for offence

under Section 304-A is reduced from 2 years to one already undergone.

The sentence in respect of Section 279 IPC and fine in respect of both the offences shall however remain unaltered.

5. The revision petition is dismissed except for the aforesaid modification in sentence.
6. The petitioner be released from the custody, if not required in any other case.

(GURVINDER SINGH GILL)
JUDGE

16.05.2019
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No