

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2579 of 2018 (O&M)

Date of Decision: 16.05.2019

Raj Singh @ Harpal Singh

---- Petitioner

versus

State of Punjab and another

---- Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. A.S. Mann, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. P.K.S. Phoolka, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J. (Oral)

The present revision petition has been directed against the impugned judgment dated 09.07.2018 passed by learned Additional Sessions Judge, Mansa, vide which the appeal filed by the petitioner has been dismissed and the judgment of conviction as well as order of sentence dated 07.08.2015, under Sections 279 and 304-A of the Indian Penal Code, (for short 'IPC') of learned Judicial Magistrate First Class, Mansa, (for short 'JMFC'), has been affirmed.

Brief facts of the case are that prosecution was initiated on the basis of statement of PW-1 Jagdish Singh/complainant with the allegations that on 02.04.2011, at about 12:00 p.m. he and his nephew Harjit Singh and Jagtar Singh were coming on two motorcycles from village Hero Khurd to Bhikhi via Metalled road Jassarwal and Mohar Singh Wala. Harjit Singh was driving his

motorcycle bearing No. PB-03-9929, whereas he alongwith Jagtar Singh was riding Hero Honda Motorcycle bearing No. HR-24L-5689. when they were one kilometer away from Bus Stand, Jassarwal, one mini bus bearing No. PB-13V-7821 being driven by accused-Raj Singh at a very high speed and in a negligent manner hit the motorcycle of Harjit Singh, as a result of which he fell down on the road and became unconscious. He suffered injuries on the right side of his head, right jaw, right leg and right knee. The motorcycle was also badly damaged and bus driver left the bus at the spot and ran away. Complainant took Harjit Singh to Government Hospital, Bhikhi, and thereafter referred to DMC & Hospital, Ludhiana. On 03.04.2011, the police came to record the statement of his nephew, but since the family was disturbed on account of this accident, the statement could not be recorded and later on the above statement was recorded on 08.04.2011 on the basis of which FIR No. 18 dated 08.04.2011 was registered at Police Station, Bhikhi, for the offence under Sections 279, 337, 338, 427 of the Indian Penal Code. On 16.04.2011 the injured died and therefore, offence under Section 304-A of the Indian Penal Code was enhanced in the said FIR.

After completion of the investigation, report under Section 173 Cr.P.C. was submitted and thereafter, charges under Sections 279 and 304-A of the Indian Penal Code were framed against the petitioner to which, he pleaded not guilty and claimed trial. Prosecution examined 11 witnesses, including respondent No.2-Jagdish Singh as PW 1.

The entire incriminating material was put before the petitioner under Section 313 Cr.P.C. wherein he denied the same and claimed innocence while pleading false implication.

After hearing both sides and perusing the record, learned trial

Court held the petitioner guilty under Sections 279 and 304-A of the Indian Penal Code and sentenced vide judgment and order dated 07.08.2015 in the following terms:

<i>Under Section</i>	<i>Sentence</i>	<i>In default of Fine</i>
279 IPC	Rigorous Imprisonment for six months	-
304-A	Rigorous imprisonment for eighteen months and to pay fine of Rs. 5,000/-	To further undergo rigorous imprisonment for 15 days

Both the sentences were ordered to run concurrently.

Aggrieved against the judgment and order passed by the learned Judicial Magistrate First Class, an appeal was preferred by the petitioner, but the same was dismissed by learned Additional Sessions Judge, Mansa, vide judgment dated 09.07.2018, hence the present criminal revision.

At the outset, learned counsel for the petitioner does not wish to challenge the conviction imposed by both the Courts below, but he confined his prayer only regarding the quantum of sentence.

It is contended by learned counsel for the petitioner that FIR in the present case was registered on 08.04.2011, and he was convicted by learned trial Court on 07.08.2015 and thereafter, his appeal was also dismissed and now he is in the criminal revision against both the Courts below. Thus, the petitioner is facing the criminal proceedings for the last about more than eight years and as such he has already suffered a lot. Further contends that petitioner is the first offender as there is no other criminal case pending against him.

On the other hand, learned State counsel has opposed the prayer of the petitioner and submitted that petitioner does not deserve any leniency for reduction of his sentence and the present petition is liable to be dismissed in entirety.

Learned counsel for the complainant submits that they have been suitably compensated outside Court by the petitioner, therefore he has no objection if the sentence imposed upon the petitioner is reduced to already undergone by him.

Heard both sides and perused the record.

Custody certificate of the petitioner has been produced in Court by learned State counsel and the same is taken on record.

Perusal of the custody certificate reveals that petitioner has undergone the sentence of one year, twenty one days including remission of two months and fifteen days out of total sentence of one year and six months and during his custody he was having a good conduct in the jail premises and that is the reason that he has been granted the benefit of remission. Custody certificate also reveals that there is no other criminal case pending against the petitioner and even this fact is not disputed by learned State counsel.

Since the petitioner has already suffered the agony of protracted litigation w.e.f. 08.04.2011 and being a poor person having the liability to maintain old parents, in the opinion of this Court, these can be considered as mitigating circumstances for the reduction of his sentence imposed by both the Courts below.

In view of the above, the conviction of the petitioner imposed by both the Courts below under Sections 279 and 304-A IPC is upheld, however, the sentence is reduced to the period already undergone by him. Amount of

fine, if not already paid, the same shall be deposited before learned trial Court within a period of four weeks from today.

Disposed off in the aforesaid terms.

Pending miscellaneous applications, if any shall also stand disposed off.

May 16, 2019
rashmi

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No