

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

**CRM-2569-2018 in/and
CRR No.272 of 2018(O&M)
Date of decision :08.04.2019**

Darshan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Aminder Singh, Advocate, for the petitioner.

Mr. P.S.Walia, AAG, Punjab.

RAJBIR SEHRAWAT, J. (ORAL)

This is a revision petition filed for challenging the judgment/order dated 22.11.2017 passed by Additional Sessions Judge, Sangrur, whereby the appeal filed by the petitioner against the judgment of conviction and order of sentence, dated 15.07.2016, passed by Judicial Magistrate 1st Class, Sangrur has been dismissed, thereby; upholding the conviction of the petitioner under Sections 279 and 304-A of IPC and award of the maximum sentence of rigorous imprisonment for a period of 02 years to the petitioner.

The order dated 04.05.2018 passed by this Court shows that the present petition was restricted by the learned counsel for the petitioner only qua the quantum of sentence. Today again, the learned counsel for the petitioner submits that since the petitioner has already undergone substantial part of the sentence, therefore, the present petition be considered only qua reduction in sentence.

The facts involved in the present petition are that on 24.04.2014, Gurinder Singh son of Gurdarshan Singh, resident of village Kheri, Police Station Sadar, Sunam got recorded his statement that, on 24.04.2014 in the evening, he was present at the traffic light chowk, Sangrur on his motorcycle, where his uncle Bikkarjit Singh met him, on his moped TVS Wego. Thereafter, they started from Sangrur towards village Balian. At about 8.15 p.m. when his uncle Bikkarjit Singh was 50-60 yards from CL tower, then one tractor trolley came from the opposite side, which was being driven at fast speed and in rash & negligent manner, and that too without lights. Although, the complainant and Bikkar Singh took their vehicles aside, but the driver of the tractor/trolley struck against Bikkarjit Singh, due to which, he fell down. The complainant somehow saved himself from the tractor trolley. The driver of the tractor trolley stopped at some distance. The complainant was taking care of Bikkarjit Singh. The driver of the tractor trolley came there and disclosed his name as Darshan Singh, the present petitioner. Thereafter, the driver of the tractor trolley fled away from the spot. Bikkarjit Singh succumbed to the injuries suffered in the incident.

The prosecution led its evidence. The trial Court appreciated the evidence and convicted the petitioner under Sections 279 and 304-A of IPC. On conviction, the trial Court sentenced the petitioner for maximum of 02 year of rigorous imprisonment along with fine.

Aggrieved against the judgment of conviction and order of sentence passed by the trial Court, the petitioner preferred an appeal before the Additional Sessions Judge, Sangrur. However, that appeal was

also dismissed by the Appellate Court on 22.11.2017. Accordingly, the present revision petition has been filed by the petitioner.

Learned counsel for the petitioner submits that although he has a good case on merits, however, since the petitioner had already undergone substantial part of the sentence, therefore, he has restricted the present petition only qua the quantum of sentence. It is submitted by the learned counsel for the petitioner that the petitioner has already undergone 01 year, 02 months and 06 days of actual sentence. Besides this, he has also earned remission of 04 months and 10 days. Hence, the petitioner has undergone a total sentence of 01 year, 06 months and 16 days, including, remissions. It is submitted by the counsel that the petitioner is the first offender. He is the sole bread earner of the family. The fact that the petitioner has earned remissions while in custody, also shows that the petitioner has maintained absolutely good conduct, while serving his sentence. Hence, the petitioner be shown leniency and the sentence imposed upon the petitioner be reduced to the period of sentence already undergone by him. Still further, it has also been pointed out by the counsel for the petitioner that the petitioner is the sole bread earner of the family and he has two minor sons, out of which, one is physically challenged.

On the other hand, learned counsel for the State has submitted that the petitioner has been convicted and sentenced for the offence which he had committed. Still further, it is submitted by the counsel that the trial Court has already shown a leniency towards the petitioner while sentencing him to a lower punishment. Accordingly, it is

submitted that the petition deserves to be dismissed and the petitioner deserves to serve the sentence awarded to him. Learned counsel for the State has also produced the custody certificate of the petitioner which shows that the petitioner has undergone total sentence of 01 year, 06 months and 16 days including remissions of 04 months and 10 days; as on 08.04.2019.

Having heard learned counsel for the parties, this Court finds sufficient merits in the submissions made by the learned counsel for the petitioner. As per the custody certificate, produced by the State, the petitioner has already undergone the sentence of 01 year, 06 months and 16 days, out of total sentence of 02 years. The petitioner has also been shown to have earned remission of 04 months and 10 days. Since the petitioner has shown his good conduct even during the custody, therefore, it can safely be presumed that he has learnt his lesson and therefore, he has shown the tendency to reform himself and also inclination to join the social main stream. Hence, it would not be unjustified if, in the facts and circumstances of the present case, the petitioner is granted benefit of reduction of sentence.

Otherwise also, as submitted by the counsel for the petitioner, the petitioner is the first offender. Still further, it has also been pointed out by the counsel for the petitioner that the petitioner is the sole bread earner of the family and he has two minor sons, out of which, one is physically challenged. Record also shows that the age of the petitioner is about 40 years. Therefore, he is deep down in the responsibilities of the family life. The petitioner having undergone a substantial part of

sentence, it would not be unjustified, if the sentence awarded to him is reduced to the period of sentence already undergone by him.

In view of the above, the present petition is partly allowed. While the petition qua challenge to the conviction is dismissed, the same is allowed qua reduction of sentence. The sentence awarded to the petitioner is reduced to the period of sentence already undergone by him. Accordingly, the orders of sentence passed by the Courts below are ordered to be modified.

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

(RAJBIR SEHRAWAT)
JUDGE

08.04.2019

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Whether speaking / reasoned : Yes No

Whether Reportable : Yes No