

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

CRR No.3602 of 2018 (O&M)
DATE OF DECISION : 4th JULY, 2019

Daljit Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Jaideep Verma, Advocate for the petitioner.

Mr. K. S. Aulakh, Deputy Advocate General, Punjab.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition challenging order dated 17.09.2018 passed by Sessions Judge, Rupnagar whereby the judgment of conviction and order of sentence dated 21.08.2017 passed by Additional Chief Judicial Magistrate, Rupnagar, was upheld, thereby upholding the conviction of the petitioner under Section 279 and 304-A IPC and also the sentence imposed upon him for the above said offences.

Perusal of the orders shows that the present petition has been restricted only qua quantum of sentence and the notice of motion was issued in the case only qua this aspect; vide order dated 30.10.2018.

Brief facts of the case are that FIR No.41 dated 31.03.2012 was lodged on the statement of one Charanjeet stating therein that on 30.03.2012 at about 10.00 pm when he was sitting in his chemist shop, his father Jaswant Singh had just boarded the scooter to return to their house. But, in the meantime, the offending car bearing registration No. PB-12K (T) 9305, driven by the present petitioner in a rash and negligent

manner came at high speed on the wrong side. The car of the petitioner hit scooter of the father of the complainant. Father of the complainant was seriously injured. He was admitted to Kakkar Hospital, Morinda for treatment; from where he was referred to PGIMER, Chandigarh. However, ultimately the father of the complainant succumbed to the injuries sustained in the accident.

With the above said allegations, the petitioner was prosecuted. By examining the eye witnesses and other relevant witnesses, prosecution was able to prove the guilt of the petitioner. Accordingly, the petitioner was convicted for the offences punishable under Sections 279 and 304A IPC vide order dated 21.08.2017. Vide another order of even date, the petitioner was sentenced to undergo imprisonment for a period of 6 months with fine for offence under Section 279 IPC and he was sentenced with rigorous imprisonment for a period of 2 years along with fine for the offence under Section 304-A IPC. Aggrieved against the judgment of conviction and order of sentence, the petitioner had preferred first appeal before the Sessions Judge, Rupnagar. However, the Sessions Judge, Rupnagar dismissed his appeal vide his judgment dated 17.09.2018. Accordingly for challenging the orders passed by both the courts below, the present revision petition has been filed by the petitioner.

Arguing the case of the petitioner, learned counsel for the petitioner has submitted that although the petitioner had a very good case on merits of the case, however, since the petitioner has undergone substantial part of the sentence, therefore, he was instructed to restrict the

present petition only qua quantum of sentence and not to press the same qua conviction of the petitioner. Accordingly, he had made statement in this regard and accordingly the notice was issued qua quantum of sentence only. It is further submitted by the counsel for the petitioner that accident being an accident, the same has to be taken as an act of providence. Although the petitioner may have been a bit negligent, as has been found by the court below, however, for that the petitioner has already suffered the incarceration for a sufficient period and he has learnt the lesson. It is further submitted by counsel for the petitioner that even during the custody, the petitioner has maintained good behaviour. Therefore, even the jail authority has awarded him the remissions in his sentence. This would also show that the petitioner is on the course of correction and has realized his mistake. Learned counsel for the petitioner further submits that the petitioner is of the age of about 26 years, therefore, he is deep down in the responsibility of the family life. He has three minor daughters. Being sole bread earner of the family, his presence is required to take care of the family. The counsel has also pointed out that it is the first offence on the part of the petitioner. He is not involved in any other criminal activity of any kind. The fine is stated to have been deposited. Therefore, it is submitted that the sentence imposed upon the petitioner be reduced to the period already undergone by the petitioner.

On the other hand, learned counsel for the State has produced the custody certificate of the petitioner. The custody certificate shows that the petitioner has undergone the sentence of 1 year 2 months

and 1 day, including remissions. The custody certificate further shows that during the period of custody, the petitioner has earned remissions of 4 months and 15 days. No other case is pointed out against the petitioner; either pending or decided. However, the learned counsel for the State has submitted that since because of the negligence of the petitioner, one person has lost his life, therefore, any sympathy with the petitioner would be a totally misplaced sympathy. The courts below have already shown leniency towards the petitioner in awarding the sentence. Therefore, the petitioner deserves to serve the entire sentence awarded by the courts below. However, learned counsel for the State has not disputed the fact that there is no other case against the petitioner.

Having heard learned counsel for the parties and perusing the case file, this court finds substance in the argument of the learned counsel for the petitioner. No doubt, due to negligence of the petitioner one person has lost life, however, the accident being an accident can happen to anybody at hands of anybody. But for his negligence, the petitioner has already suffered incarceration for a substantial period. The record of the case also shows that there is no other case against the petitioner. This court also finds substance in the argument of the learned counsel for the petitioner that being in the middle of the responsibility of the family, the petitioner deserves extension of some leniency in the matter of sentence. The assertion of the counsel for the petitioner that the petitioner is on the course of correction is also duly reflected from the custody certificate; which shows that the petitioner has earned remissions during custody for his good behaviour. Hence, it would not be

unjustified if the petitioner is granted one more opportunity to lead the normal life by joining the mainstream of social fabric, by granting him the concession in sentence awarded to him, as prayed for by the counsel for the petitioner.

In view of the above, this court finds that the ends of justice would be met if the sentence awarded to the petitioner is reduced to the period of sentence already undergone by him. Accordingly, the order of sentence passed by the courts below is modified. While the present revision petition is dismissed qua conviction of the petitioner, the sentence imposed upon the petitioner is ordered to be reduced to the period of sentence already undergone by him.

Accordingly, the present petition is disposed of. Let the petitioner be released from the custody forthwith; if not required in connection with any other case.

4th JULY, 2019
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>