

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.3765 of 2018 (O&M)

Date of Decision:01.05.2019

Gurdeep Singh

---- Petitioner

versus

State of Haryana and another

---- Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Aman Deep Singh Rai, Advocate for the petitioner.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

None for respondent No.2.

MAHABIR SINGH SINDHU, J. (Oral)

The present revision petition has been directed against the impugned judgment dated 28.09.2018 passed by learned Sessions Judge, Panchkula, vide which the appeal filed by the petitioner has been dismissed and the judgment of conviction dated 01.04.2017 as well as order of sentence dated 03.04.2017, under Sections 279 and 304-A of the Indian Penal Code, (for short 'IPC') of learned then Sub Divisional Judicial Magistrate Kalka, has been affirmed.

Brief facts of the case are that prosecution was initiated on the basis of statement of PW-4-Deepak Kumar/complainant with the allegations that on 07.02.2014, at about 2:30 p.m. Hom Bahadur alongwith his grand daughter, namely, Jhalak had been walking on the side of the road. In the meantime, a truck bearing registration No. HP-12-8695, which had been driven by the accused in a rash and negligent manner, hit Hom Bahadur and Jhalak.

Due to the collision, Hom Bahadur and Jhalak had succumbed to injuries. On the basis of these allegations FIR No. 39 dated 07.02.2014 was registered at Police Station, Pinjore, for the offence under Sections 279 and 304-A of the Indian Penal Code.

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 10 witnesses, including complainant-Deepak Kumar as PW 4.

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 01.04.2017 and 03.04.2017 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 one year and to pay fine of Rs. 500/-	To further undergo simple imprisonment for seven days

Both the sentences were ordered to run concurrently.

Aggrieved against the judgment and order passed by the learned

Sub Divisional Judicial Magistrate, an appeal was preferred by the petitioner,

but the same was dismissed by learned Sessions Judge, Panchkula, vide judgment dated 28.09.2018, hence the present criminal revision.

Learned counsel for the petitioner contends that the matter has been compromised between the parties. Further contends that he 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 07.02.2014, and he was convicted by learned trial Court on 01.04.2017 and sentenced vide order dated 03.04.2017 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 five 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.

Heard both sides and perused the record.

In terms of the order dated 08.04.2019, statements of parties were recorded before the Mediation and Conciliation Centre of this Court and report to that effect has been received, which reads as under:

'Mediation proceedings held. Parties have amicably settled their disputes vide written settlement agreement, which is placed on record. As such, the case file be sent back to the Hon'ble High Court.'

Perusal of the custody certificate dated 23.03.2019 reveals that

petitioner has undergone the total sentence of six months and sixteen days including remission of twenty days out of total sentence of one year 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 matter has been amicably settled between the parties and the petitioner has already suffered the agony of protracted litigation w.e.f. 07.02.2014 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 01, 2019
rashmi

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No