

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 2380 of 2019 (O&M)
Date of Decision: 06.12.2019

Major Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Peeush Gagneja, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 8.8.2019, passed by Additional Sessions Judge, Moga, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 17.1.2018, passed by Judicial Magistrate Ist Class, Moga in case FIR No. 175 dated 29.7.2014 under Section 304-A IPC, registered at Police Station City Moga, was dismissed.

The brief facts of the present case are that complainant Sanjeev Kumar got recorded his statement to the police to the effect that on 29.7.2014, he had come to his Aunt's house in Nanak Nagari, Moga. At about 6.30 P.M., when he along with his sister-in-law Pooja Rani and one Geeta Rani along with Daksh Kumar, younger son of Pooja Rani, came in the street, a white coloured Innova vehicle bearing registration No. PB-11-J-8411, being driven by the petitioner in a rash and negligent manner, came there and ran over the child, namely Daksh Kumar. As a result of this, the said child was crushed under the tyre of the said vehicle.

In order to escape from the spot, the petitioner again ran over the said vehicle over Daksh Kumar and fled away from the spot along with the vehicle. Daksh Kumar succumbed to the injuries on the way to hospital. On the basis of the statement of Sanjeev Kumar, the FIR in question was registered.

After completion of investigation and necessary formalities, challan was presented against the petitioner.

Charge was framed against the petitioner under Sections 279 and 304-A IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as eight witnesses.

In the statement recorded under Section 313 Cr.P.C., the accused denied the prosecution case and pleaded false implication.

The accused had examined two witnesses in his defence.

The trial Court vide judgement and order dated 17.1.2018 convicted the petitioner under Sections 279 and 304-A IPC and sentenced him to undergo rigorous imprisonment for a period of two years qua commission of offence punishable under Section 304-A IPC. He was further sentenced to undergo rigorous imprisonment for a period of six months qua commission of offence punishable under Section 279 IPC. The petitioner was also directed to pay compensation of Rs. 1,00,000/- to Pooja Rani, mother of deceased Daksh.

The appeal preferred by the petitioner was dismissed by the Appellate Court vide judgment dated 8.8.2019.

During the course of arguments, counsel for the petitioner has confined his prayer only to the quantum of sentence imposed upon the

petitioner.

Learned counsel for petitioner has submitted that the petitioner is in custody since 8.8.2019. The accident in question took place in July, 2014 and he has faced the agony of protracted trial for more than 05 years. Learned counsel has further submitted that the petitioner is the sole bread winner of the family. The petitioner is not a previous convict. The accident in question was not a willful act on the part of the petitioner. Learned counsel for the petitioner further submits that the petitioner is ready to pay compensation to the tune of Rs. 35,000/- to the legal representatives of the deceased over and above the amount of compensation of Rs. 1,00,000/-, awarded by the trial Court. On these premises, learned counsel for the petitioner prays that the substantive sentence imposed upon the petitioner may be reduced to the one already undergone by him.

Learned State counsel has opposed the prayer and submits that the petitioner drove the vehicle in rash and negligent manner and had caused death of Daksh Kumar and the Courts below have already taken a lenient view.

With the able assistance of the learned counsel for the petitioner and the learned State counsel, I have gone through the judgments of the Courts below.

As the prayer made by the petitioner is restricted only to the sentence, therefore, the findings recorded by the Courts below convicting the petitioner do not call for any interference and the same are accordingly affirmed.

While coming to the sentence part, the petitioner is in custody since 8.8.2019 and he has already undergone about four months of

actual sentence. Taking into consideration that the FIR in the present case was registered on 29.7.2014 and petitioner has been facing the agony of trial for the last more than five years, in my opinion, no useful purpose would be served by keeping the petitioner behind the bars to undergo the remaining sentence. The ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him.

In view of the above, while upholding the conviction of the petitioner under Sections 279 and 304-A IPC, the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him with a condition that he would pay ₹ 35,000/- as compensation to the legal heirs of deceased Daksh Kumar over and above the amount of compensation of Rs. 1,00,000/-, awarded by the trial Court.

The amount of compensation shall be deposited within one month from today with the Chief Judicial Magistrate, concerned, failing which this petition shall be deemed to have been dismissed and the petitioner will surrender to undergo the remaining sentence as awarded by the Court below. The said amount of compensation be disbursed to the legal heirs of deceased Daksh Kumar, on identification.

The petitioner who is in custody, be set at liberty forthwith, if not required in any other case.

With the aforesaid order, the revision petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

December 06, 2019
Gurpreet

GURPREET SINGH
2019.12.11 11:06
I attest to the accuracy and
authenticity of this document
chandigarh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No