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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-4808-2018 (O&M)

Date of Decision : February 13, 2019

Nachattar Singh Petitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Harsh Raheja, Advocate,
for the petitioner.

Mr. Ashok Kumar Singla, Sr. DAG, Punjab,
for respondent-State .

Mr. Vikas Sonak, Advocate,
for respondent no.2.

SHEKHER DHAWAN, J.

Present revision petition against judgment of conviction and order of sentence dated 17.05.2018 passed by Judicial Magistrate Ist Class, Ferozepur vide which the petitioner was convicted and sentenced as under:-

Under Section	Sentence	In default
U/S 279 of the Indian Penal Code, 1860.	To undergo Rigorous Imprisonment [RI] for the period of six months and to pay a fine of Rs.500/-.	R.I. for 2 months
U/S 304-A IPC	To undergo Rigorous Imprisonment for the period of 2 Years and to pay a fine of Rs.2,000/-	R.I. for 3 months
U/S 427 IPC	To undergo Rigorous Imprisonment [RI] for the period of six months and to pay a fine of Rs.500/-.	R.I. for 2 months

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2. The appeal filed by the revisionist was partly allowed by learned Additional Sessions Judge, Ferozpur vide judgment dated 20.11.2018 and the conviction of the petitioner under Section 427 IPC was set-aside and the sentence awarded by learned trial Judge was reduced as under:-

Under Section	Sentence	In default
U/S 279 of the Indian Penal Code, 1860.	To undergo Rigorous Imprisonment [RI] for the period of Four months and to pay a fine of Rs.500/-.	R.I. for 1 month.
U/S 304-A IPC	To undergo Rigorous Imprisonment for the period of One year and to pay a fine of Rs.2,000/-	R.I. for 3 months

3. Hence, the petitioner has preferred this revision petition against the aforesaid judgment of conviction and order of sentence passed by learned Additional Sessions Judge.

4. Learned counsel for the petitioner contended that the petitioner is facing the trial since 5.8.2015 and the matter has otherwise been settled between the parties and to that effect plea was taken before learned Additional Sessions Judge at the time of decision of the appeal. The factum of compromise having been effected between the parties was pleaded by learned counsel representing the accused as well as learned counsel representing the complainant and both the parties had prayed for taking a lenient view on the point of sentence, but the Appellate Court had not considered that aspect and dismissed the first appeal filed by the petitioner.

5. Learned State counsel has not disputed this factual position as detailed in the judgment recorded by learned Additional Sessions Judge.

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6. Having considered the contentions raised by learned counsel for the parties and appraisal of the record, this Court is of the considered view that as regard to commission of offence and conviction of the petitioner for the offences punishable under Sections 279 and 304-A IPC, there is no dispute that learned Court below had rightly recorded the judgment of conviction for the said offences on the basis of statements of PW-1, Karamjit Kaur (complainant) and PW-2, Avtar Singh (eye-witness) and other material evidence available on the file.

7, Learned counsel representing the petitioner has otherwise not challenged the judgment of conviction and as such, there is no illegality in the judgment of conviction recorded by learned trial Judge and the said findings having been affirmed by learned Additional Sessions Judge. The present revision petition qua judgment of conviction recorded by learned Additional Sessions Judge is affirmed regarding conviction of the petitioner under Sections 279 and 304-A IPC.

8. Now, coming to the point of sentence, the petitioner has been awarded sentence of Rigorous Imprisonment for a period of 1 year under Section 304-A IPC. By now, he has already undergone total sentence of 4 months and 11 days (including remissions) as per custody certificate dated 11.2.2019 against the awarded sentence of 1 year. It is not disputed that the parties have settled their dispute amicably. The petitioner is not involved in any other offence except this motor vehicular accident case in which he is held guilty because of his rash and negligent driving.

9. Similar matter was before Hon`ble Apex Court in **Puttaswamy Vs. State of Karnataka & another**, 2009(1) R.C.R. (Criminal) 501 and Hon`ble Apex Court observed that in such like matters involving offences

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under Sections 279 and 304-A IPC if parties have settled the dispute, the conviction can be maintained for the said offence and the sentence of imprisonment can be modified while deciding the revision petition.

10. Identical view as taken by this Court in **Sardara Singh and others Vs. State of Punjab**, 2004 (3) R.C.R. (Criminal) 265, wherein Coordinate Bench of this Court observed as under :-

“14. A settlement, which emerges from the hearts of the individuals will be more lasting as compared to the one which will be enforced by penal provisions of law. Now a days Lok Adalats have become very popular, wherein attempt is being made to settle the matter amicably and maintain the relationships between the parties. In the case in hand also an attempt has been made by the parties to rehabilitate in life, which this Court feels is required to be appreciated. One of the appellant had already died during pendency of this appeal and others have already undergone some sentence.”

11. Taking into consideration all these facts, while maintaining the judgment of conviction of the petitioner under Sections 279 and 304-A IPC, the order of sentence is modified to the extent that the sentence of petitioner, Nachattar Singh in this case shall be reduced to the period he has already spent while remaining in custody during the period of trial, appeal and revision proceedings. The petitioner be released from custody in this case, if not required in any other case. However, the petitioner shall make payment of Rs.20,000/- as compensation, apart from fine amount imposed by the Courts below) which shall go to the family of the deceased. The amount of compensation shall be deposited with the Court of learned

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trial Judge within a period of one month from receipt of a copy of this order.

12. The present revision petition stands allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

February 13, 2019
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes