

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

CRR No.160 of 2019

Date of decision:09.01.2020

Pinder @ Dammu Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Aditya Pal Singh, Advocate
for the petitioner.

Mr. V.G.Jauhar, Sr. DAG, Punjab.

SUVIR SEHGAL, J.

The instant revision petition has been filed challenging the judgment dated 14.11.2018 passed by learned Additional Sessions Judge, Patiala whereby the appeal filed by the petitioner was dismissed and the judgment dated 17.03.2016 passed by the Judicial Magistrate Ist Class, Patiala convicting and sentencing the petitioner, was upheld.

As per prosecution, on 22.02.2011, the petitioner was driving a PRTC bus bearing No.PB-65-L-4416 which while overtaking struck against the car bearing No.HR-01-Z-0988 resulting into death of Rajinder Jain and injuries to other two occupants of the car, namely, driver Ravi Kumar and Kavita Jain. On the statement of Ankit Jain, who was following the car of his uncle Rajinder Jain while they were on their way from Ambala to Malout for attending the cremation of relative, FIR No.93 dated 22.02.2011 was registered under Sections 279, 337 and 304-A of Indian Penal code. Subsequently, on the basis of injuries suffered by Kavita Jain, Section 338

of Indian Penal Code was added as Kavita Jain had suffered fracture on her left arm. The petitioner Pinder Singh alias Dammu was arrested and tried under the said provisions.

On the basis of evidence led by the prosecution, the petitioner was found guilty by the trial Court vide judgment dated 17.03.2016 and was sentenced as under:-

Charge Under		Sentence
Section 279 IPC	:	To undergo rigorous imprisonment for a period of six months along with a fine of Rs.500/- and simple imprisonment for 15 days in default of payment of fine.
Section 337 IPC	:	To undergo rigorous imprisonment for a period of six months along with a fine of Rs.500/- and simple imprisonment for 15 days in default of payment of fine
Section 338 IPC	:	To undergo rigorous imprisonment for a period of two years along with a fine of Rs.1000/- and simple imprisonment for one month in default of payment of fine
Section 304-A IPC	:	To undergo rigorous imprisonment for a period of two years along with a fine of Rs.2000/- and simple imprisonment for one month in default of payment of fine

Appeal filed by the petitioner before the Additional Sessions Judge, Patiala was dismissed on 14.11.2018 and judgment of conviction and sentence passed by the trial Court was affirmed. Still aggrieved the petitioner has filed the present revision petition.

Counsel for the parties have been heard. On the basis of evidence of Ankit Jain PW1, both the Courts below have arrived at the firm finding that the petitioner was driving the offending bus. Ankit Jain was an

eye witness of the accident. He was following the car of his deceased uncle. On the basis of his evidence, conviction of the petitioner has been recorded. A perusal of the judgments of both the Courts below shows that the petitioner has been rightly convicted under Sections 279, 337, 338 and 304-A of Indian Penal Code and there is no scope for interference in the findings recorded by the Courts below. Hence, conviction of the petitioner under the above said provisions is upheld.

At the time of hearing on 05.02.2019, learned counsel for the petitioner submitted that he has instructions to restrict the petition only quantum of sentence. He has submitted that sentence of the petitioner deserves to be reduced and has placed reliance upon the judgment of the Hon'ble Supreme Court in **State of Punjab Vs. Saurabh Bakshi 2015(2) RCR (Criminal) 495**. He has further argued that the petitioner is 55 years old and he is the sole bread earner of the family. He had more than 07 years of unblemished service as a bus driver with PRTC.

Learned State counsel has produced on record the custody certificate of the petitioner which shows that the petitioner has already undergone the period of 01 year 03 months and 23 days as on 09.01.2020, including remission.

Keeping in view the law laid down by the Hon'ble Supreme Court in **Saurabh Bakshi's case (supra)** and also the fact that the petitioner has undergone the agony of trial for the almost 09 years, it is a fit case where sentence of the petitioner deserves to be reduced to the period

already undergone by him.

In view of above, while upholding the conviction of the petitioner under Sections 279, 337, 338 and 304-A of Indian Penal Code, the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him.

The revision petition is disposed of.

(SUVIR SEHGAL)
JUDGE

January 09, 2020
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No