

In the High Court of Punjab and Haryana at Chandigarh**CRR-544-2019 (O&M)****Date of Decision: 18.02.2020**

Mandeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. G.S. Bhatia, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 03.01.2019, passed by the Additional Sessions Judge, Jalandhar, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 20.09.2016, passed by Sub-Divisional Judicial Magistrate, Phillaur, Jalandhar, in case FIR No. 30 dated 06.02.2012 under Sections 279 and 304-A IPC, registered at Police Station Phillaur, was dismissed.

The brief facts of the present case are that this case was registered on the statement of complainant Ram Pal @ Rama son of Nirmal Ram @ Nimma. It was stated that on 06.12.2012, he along with his wife Anita Rani and Balbir Chand, his father-in-law along with his mother-in-law Baksho, residents of village Pharwala, P. S. Bilga had been going on their motorcycle, bearing registration no. PB-37-F-7483 Make Splender of black colour, from Phillaur to Pharwala. At about 05:45 P.M., when they

reached near the bus stand Partabpura, then a bus of Anand Transport Company of yellow and orange colour had come from the front side. The driver of the bus had been driving the bus in a rash and negligent manner and he had struck his bus into the motorcycle of his father-in-law, due to which his father-in-law and mother-in-law had fallen down on the road. His father-in-law succumbed to the injuries at the spot. The motorcycle was also badly damaged. His mother-in-law had got admitted at Phillaur but later on she had also died. Bus driver had stopped his bus after some distance and run away from the spot after leaving the bus at the spot. He had read the number of the bus as PB-10-DH-9625 and come to know the name of driver of the bus as Mandip Singh son of Banta Singh. On the basis of his statement, the present case was registered and investigated. The accused was arrested in this case during investigation.

On finding a prima-facie case under sections 279 and 304-A IPC was registered, the petitioner was charge-sheeted accordingly, to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as eight witnesses and the remaining evidence of the prosecution was closed by order.

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

The trial Court, vide judgment of conviction and order of sentence dated 20.09.2016, convicted the petitioner under Section 279 IPC and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 500/- and, in default of payment of fine, to

undergo rigorous imprisonment for a period of 7 days. The petitioner was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 1,000/- and, in default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days.

The appeal preferred by the petitioner was dismissed by the Appellate Court vide impugned judgment dated 03.01.2019.

Still aggrieved, the petitioner has preferred the present revision petition.

I have heard learned counsel for the parties and with their able assistance, have also gone through the paper book.

At the outset, learned counsel for the petitioner has confined his arguments to the quantum of sentence.

Custody certificate by way of affidavit of Iqbal Singh Dhaliwal, PPS, Deputy Superintendent, Central Prison, Ludhiana, has been filed by the learned State Counsel in Court today. The same is taken on record.

As per custody certificate, the petitioner has undergone 01 year and 17 days of actual sentence out of the total sentence of two years. FIR in this case was registered on 06.02.2012. The petitioner has been facing the agony of trial for the last more than 8 years. The petitioner has been in custody since 03.01.2019. The petitioner has been released on parole from 20.01.2020 to 17.03.2020. Thus, taking into consideration the above facts and circumstances, in my opinion, no useful purpose would be served by sending the petitioner behind bars to undergo the remaining period of sentence.

The Hon'ble Supreme Court in ***State of Punjab Vs. Saurabh Bakshi, 2015(2) RCR (Criminal) 495***, while setting aside the order of the High Court, thereby reducing the sentence imposed upon the accused i.e. one year to the period already undergone by him i.e. 24 days, awarded the sentence of six months to the accused-respondent therein. It was held as under:-

“17. In the instant case the factum of rash and negligent driving has been established. This court has been constantly noticing the increase in number of road accidents and has also noticed how the vehicle drivers have been totally rash and negligent. It seems to us driving in a drunken state, in a rash and negligent manner or driving with youthful adventurous enthusiasm as if there are no traffic rules or no discipline of law has come to the centre stage. The protagonists, as we perceive, have lost all respect for law. A man with the means has, in possibility, graduated himself to harbour the idea that he can escape from the substantive sentence by payment of compensation. Neither the law nor the court that implements the law should ever get oblivious of the fact that in such accidents precious lives are lost or the victims who survive are crippled for life which, in a way, worse than death. Such developing of notions is a dangerous phenomenon in an orderly society. Young age cannot be a plea to be accepted in all circumstances. Life to the poor or the impecunious is as worth living for as it is to the rich and the luxuriously temperamental. Needless to say, the principle of sentencing recognizes the corrective measures but there are occasions when the deterrence is an imperative necessity depending upon the facts of the case. In our opinion, it is a fit case where we are constrained to say that the High Court has been swayed away by the passion of mercy in applying the

principle that payment of compensation is a factor for reduction of sentence to 24 days. It is absolutely in the realm of misplaced sympathy. It is, in a way mockery of justice. Because justice is "the crowning glory", "the sovereign mistress" and "queen of virtue" as Cicero had said. Such a crime blights not only the lives of the victims but of many others around them. It ultimately shatters the faith of the public in judicial system. In our view, the sentence of one year as imposed by the trial Magistrate which has been affirmed by the appellate court should be reduced to six months."

Keeping in view of the law laid down by the Hon'ble Supreme Court in **Saurabh Bakshi's** case (supra) and further taking into consideration the fact that the petitioner has been facing the agony of trial for the last more than 8 years, in my opinion, it is a fit case, where the substantive sentence imposed upon the petitioner can be reduced to the period already undergone by him i.e. 1 year and 17 days.

Accordingly, the conviction of the petitioner under Sections 279, 304-A IPC is maintained. However, sentence qua imprisonment of the petitioner, is reduced to the period already undergone by him.

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

(HARNARESH SINGH GILL)
JUDGE

18.02.2020

Mangal Singh

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