

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 801 of 2019 (O&M)

Date of Decision: 12.2.2020

Bachittar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Gagan Deep Grewal, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Ms. Narender Kaur, Advocate for the complainant.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 6.12.2018, passed by Additional Sessions Judge, Sangrur, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 29.11.2017, passed by Sub Divisional Judicial Magistrate, Dhuri in case FIR No. 49 dated 11.6.2006 under Sections 279, 337, 304-A, 201, 506 and 211 IPC, registered at Police Station Sherpur, was partly allowed.

The brief facts of the present case are that complainant Resham Singh got recorded his statement to the effect that he was working at a grocery shop and on the fateful day, he had gone to his village. When he reached Daana Mandi of village Inna Bajwa looking for his wife and children, he saw them returning from the fields with green fodder. His wife and mother were accompanied by their two children namely Gagandeep Singh (son) and Kiranjit Kaur (daughter) aged 5½ years. The complainant was walking behind his wife and children. When they reached near the

house of Amarjit Singh, a truck bearing registration No. RJ-13-G-2593, being driven by the petitioner on the wrong side, at a high speed and in a rash and negligent manner, came from behind and ran over the children of the complainant. As a result of this, Gagandeep Singh died at the spot while Kiranjit Kaur suffered serious injuries on her legs. Karnail Singh, owner of the truck, who was sitting on the conductor seat, instigated the petitioner to drive away the truck from the spot, however, the truck was stopped. The driver and the owner fled away from the spot after giving threats to the complainant. Kiranjit Kaur was got admitted in Civil Hospital, Sherpur. On the basis of the statement made by the complainant, 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, 304-A, 337, 338, 506, 201 read with Section 511 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 trial Court vide judgement and order dated 29.11.2017 convicted the petitioner under Sections 279/337/338/304-A, 201 read with Section 511 IPC and sentenced him as under:-

<i>Under Section</i>	<i>Imprisonment</i>
279 IPC	To undergo rigorous imprisonment for three months

304-A IPC	To undergo rigorous imprisonment for two years and to pay a fine of Rs. 1500/- and in default of payment of fine SI for one month.
337 IPC	To undergo rigorous imprisonment for six months.
338 IPC	To undergo rigorous imprisonment for two years and to pay a fine of Rs. 1000/- and in default of payment of fine SI for one month.
201 read with Section 511 IPC	To undergo rigorous imprisonment for three months.

The appeal preferred by the petitioner was partly allowed by the Appellate Court vide judgment dated 06.12.2018 and he was acquitted under Section 201 read with Section 511 IPC, however, the judgment and conviction as recorded by the trial Court under Sections 279, 337, 338 and 304-A IPC, were upheld.

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.

As per custody certificate, the petitioner has undergone 5 months and 03 days of actual sentence out of the total sentence of two years. FIR in this case was registered on 11.6.2006. The petitioner has been facing agony of trial for the last more than 13 years. Thus, taking into consideration the above facts and circumstances, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again to undergo the remaining period of sentence.

The Hon'ble Supreme Court in *State of Punjab Vs. Saurabh*

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.”

Admittedly, the petitioner has already undergone 5 months and 03 days of actual sentence out of the total sentence of two years imposed upon him. As per **Saurabh Bakshi's** case (supra), petitioner is required to undergo six months of sentence. However, taking into consideration that there is a shortfall of only 27 days in this case, in my opinion, no useful purpose will be served by sending the petitioner behind the bars to undergo the meager sentence of 27 days so as to make the total undergone sentence as six months, in terms of **Saurabh Bakshi's** case (supra). Rather the said process would prove to be a cumbersome one, thereby causing unnecessary burden on the public exchequer as also harassment to the petitioner. Therefore, considering the shortfall of 27 days being a meager one, the sentence already undergone by the petitioner (i.e. 5 months and 03 days) is treated to be six months.

Accordingly, the conviction of the petitioner under Sections 279, 337, 338, 304-A IPC is maintained. However, sentence qua imprisonment of the petitioner, is reduced to the period already undergone by him with a condition that he would pay ₹ 20,000/- as compensation to the legal heirs of deceased Gagandeep Singh.

The petitioner is directed to deposit the fine of Rs. 20,000/- with the Chief Judicial Magistrate concerned within a period of one month from the date of the receipt of certified copy of this order. The fine so deposited, shall be paid as compensation to the legal heirs of the deceased

on identification. It is made clear that in the event of failure to deposit the said amount, the revision petition shall stand dismissed.

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

(HARNARESH SINGH GILL)
JUDGE

February 12, 2020
Gurpreet

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