

CRR-1436-2019 (O & M)

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

CRR-1436-2019 (O & M)
Date of Decision: 13.03.2020

Manpreet Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sherry K. Singla, Advocate,
for the petitioners.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J.

Challenge in the present petition is to the judgment dated 17.05.2019 passed by the learned Additional Sessions Judge, Bathinda, whereby while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 16.04.2018 passed by the learned Sub Divisional Judicial Magistrate, Talwandi Sabo, has been upheld.

The petitioner was tried for committing the offences under Sections 279, 337, 338, 427 and 304-A IPC. As per the prosecution, on 03.02.2013, complainant-Gurpiar Singh, his uncle-Chhamber Singh, Angrej Singh, Sukhpreet Kaur, Jaswinder Kaur and Charanjit Kaur were coming back to their village Gobindpura from Singhpura in Maurti Car, bearing registration No.DDO-60, which was being driven by Chhember Singh. When they reached about 0.5 km. away from GGS College, Rori Road, Talwandi Sabo, a white coloured Sumo came from the opposite side in a rash and

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negligent manner and it collided with the car of the complainant. Due to the said impact, Chhember Singh succumbed to the injuries at the spot. However, the complainant, Sukhpreet Kaur, Angrej Singh, Jaswinder Kaur, Charanjit Kaur sustained grievous injuries. The driver of said Sumo, bearing registration No.PB-12E-3247, disclosed his name to be Manpreet Singh @ Gogi (present petitioner), who managed to run away from the spot. The injured were taken to the Civil Hospital, Bathinda, from where the concerned doctor referred Angrej Singh and Sukhpreet Singh to Max Hospital, Bathinda. On the basis of the statement of the complainant, FIR in this case was registered.

On the basis of the evidence led, it stood proved before the learned trial Court that on account of the rash and negligent driving of the petitioner, Sukhpreet Kaur, Angrej Singh, Jaswinder Kaur, Charanjit Kaur and Gurpiar Singh had suffered simple as well as grievous injuries and death of Chhember Singh had taken place. Consequently, the petitioner was convicted under Sections 279, 337, 338 and 304-A IPC, and accordingly, sentenced as under:

Section	Sentence	In default of payment of fine
304-A IPC	Rigorous imprisonment for two years and to pay a fine of Rs.500/-.	Simple imprisonment for 15 days.
279 IPC	Rigorous imprisonment for six months.	-
337 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-.	Simple imprisonment for 15 days.
338 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-.	Simple imprisonment for 15 days.

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Aggrieved of the judgment and order passed by the learned trial Court, the petitioner preferred an appeal before the learned Sessions Judge, Bathinda. However, vide judgment dated 17.05.2019 passed by the learned Additional Sessions Judge, Bathinda, the appeal was dismissed, thereby affirming the judgment and order passed by the learned trial Court.

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

On 11.12.2019, learned counsel for the private respondents did not dispute the factum of the matter having been settled between the parties, following which statements of all affected by the accident in question was ordered to be recorded before the Area Magistrate, Bathinda, on 13.01.2020, qua any settlement/compromise reached between the parties. In that scenario, sentence of the petitioner was suspended till the next date of hearing i.e. 28.01.2020.

Vide order dated 28.01.2020, the petitioner was directed to surrender before the trial Court, but the period suspending his sentence was extended till 03.02.2020.

Learned counsel for the petitioner has produced the copy of order dated 09.03.2020 passed by the learned Sub Divisional Judicial Magistrate, Talwandi Sabo, which shows that in deference to the order dated 28.01.2020 passed by this Court, the petitioner surrendered before the trial Court on 09.03.2020 and was sent to jail for undergoing the remaining part of the sentence.

In compliance to the order dated 11.12.2019, learned Sub Divisional Judicial Magistrate, Talwandi Sabo, has submitted a report vide

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letter dated 18.01.2020 which indicates that the parties appeared before the Magistrate and got their respective statements recorded with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine, voluntary and without any pressure or coercion from any corner.

I have heard the learned counsel for the parties and have gone through the case file.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offences under Sections 279, 337, 338 and 304-A IPC. Learned counsel for the petitioner could not point out any perversity or illegality in the findings recorded by the Courts below nor could it be disputed by the learned counsel that on account of the rash and negligent driving of the petitioner, Sukhpreet Kaur, Angrej Singh, Jaswinder Kaur, Charanjit Kaur and Gurpiar Singh had received injuries and death of Chhember Singh had taken place. Thus, in my opinion, in view of the evidence on record, there is no scope for interference in the findings of the Courts below, so far as the conviction part is concerned. Hence, the conviction of the petitioner under Sections 279, 337, 338 and 304-A IPC is upheld.

Faced with this situation, learned counsel for the petitioner confines his prayer to the sentence part. He submits that the occurrence in this case took place on 03.02.2013; that by now the petitioner has undergone the actual sentence of about 07 months out of the total sentence of 02 years. Thus, it is prayed that the sentence imposed upon the petitioner may be reduced to the period already undergone by him.

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On the other hand, learned State counsel while opposing the prayer of the learned counsel for the petitioner states that on the sentence count, the petitioner does not deserve any indulgence by this Court.

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. 1 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."

As per the custody certificate, the petitioner has already

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undergone the actual sentence of 06 months and 11 days, meaning thereby he has undergone the actual sentence of about 07 months till date, out of the total substantive sentence imposed upon him. Hence, the prayer of the learned counsel for the petitioner for reducing the petitioner's sentence to the period already undergone, can be considered and allowed in terms of the judgment of the Hon'ble Supreme Court in Saurabh Bakshi's case (supra).

In view of the above, the sentence imposed upon the petitioner is reduced to the period already undergone by him, subject to his depositing the compensation of Rs.10,000/- under Section 357 Cr.P.C. with the trial Court to be paid to the legal heirs of deceased-Chhember Singh, in addition to the fine already imposed by the courts below. The impugned judgments of conviction and order of sentence, including default clause, stand affirmed with aforesaid modification. The petitioner be released forthwith in this case, if not required in any other case, subject to his depositing the aforesaid amount of compensation/fine. It also goes without saying that in case, the amount of fine/compensation is not deposited, the present revision petition shall stand dismissed automatically.

With the observations made above, the present revision petition is disposed of.

13.03.2020
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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