

**In the High Court of Punjab and Haryana at Chandigarh**

**Crl. Revision No. 1860 of 2019 (O&M)**  
**Date of Decision: 07.1.2020**

Sunder

.....Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. S.K.Panwar, Advocate  
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

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**HARNARESH SINGH GILL, J.**

The petitioner has preferred this petition being aggrieved of the judgment dated 17.7.2019, passed by Additional Sessions Judge, Palwal, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 27.7.2018, passed by Judicial Magistrate Ist Class, Palwal in case FIR No. 428 dated 19.8.2014 under Sections 279, 304-A IPC, registered at Police Station Camp, was dismissed.

The brief facts of the present case are that complainant Parkashveer, got recorded his statement to the effect that on 19.8.2014 he along with his brother Premraj had gone to Badka from Ballabhgarh-Faridabad on their vehicle Max bearing registration No. HR-38-N-5126. At about 4.30 P.M., when they reached near Alawalpur Chowk, Palwal, the deceased had parked the vehicle on the road side and while he was crossing the road, one ambulance bearing registration No. HR-73-6327, being driven

in a rash and negligent manner, came from Ballabhgarh side and hit his

brother. As a result of this, he fell on the road. The driver of the ambulance stopped the vehicle and the complainant noted down the number of the ambulance. The complainant got admitted his brother in the hospital where he succumbed to his injuries. 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 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as nine 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 27.7.2018 convicted the petitioner under Section 279 IPC and sentenced him to pay fine of Rs. 1,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month. 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 one month.

The appeal preferred by the petitioner was dismissed by the Appellate Court vide judgment dated 17.7.2019.

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 record of the Courts below.

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 21 days of actual sentence out of the total sentence of two years. FIR in this case was registered on 19.8.2014. The petitioner has been facing agony of trial for the last more than five years. The petitioner is in custody since 17.7.2019. Thus, taking into consideration the above facts and circumstances, in my opinion, no useful purpose would be served by keeping 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."*

Admittedly, the petitioner has already undergone 5 months and 21 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 09 days in this case, in my opinion, no useful purpose will be served by keeping the petitioner behind the bars to undergo the meager sentence of 09 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 09 days being a meager one, the

sentence already undergone by the petitioner (i.e. 5 months and 21 days) is treated to be six months.

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.

The petitioner is directed to deposit the fine of Rs. 25,000/- 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.

The petitioner who is in custody, be set at liberty forthwith, if not required in any other case.

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

**(HARNARESH SINGH GILL)**  
**JUDGE**

**January 07, 2020**  
Gurpreet

**Whether speaking/reasoned : Yes**  
**Whether reportable : Yes**