

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 2378 of 2019 (O&M)
Date of Decision: 29.1.2020

Suraj

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 16.7.2019, passed by Sessions Judge, Hoshiarpur, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 1.3.2018, passed by Judicial Magistrate Ist Class, Dasuya in case FIR No. 249 dated 18.11.2017 under Sections 304-A, 427, 279 IPC, registered at Police Station Tanda, Hoshiarpur, was dismissed.

The brief facts of the present case are that complainant Arjun Singh got recorded his statement to the effect that on 18.11.2017 he had gone to Dasuya to see his aunt (Bua) where his cousin Ashwani Kumar met him and they both started for Tanda. Ashwani Kumar was going on his motorcycle bearing No. PB-07-T-2548 and the complainant was following him on his motorcycle bearing No. PB-21-D-0423. At about 3.00 P.M., when they reached just ahead of village Khuda, a truck/canter bearing

rash and negligent manner, came from Tanda to Dasuya side and struck against Ashwani Kumar and turned turtle on the other side. As a result of this, Ashwani Kumar died at the spot. 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 304-A, 427 and 279 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as four 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 01.3.2018 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 imprisonment for a period of 30 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 imprisonment for a period of 30 days.

The appeal preferred by the petitioner was dismissed by the Appellate Court vide judgment dated 16.7.2019.

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 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 06 months and 12 days of actual sentence out of the total sentence of two years. FIR in this case was registered on 18.11.2017. The petitioner has been facing the agony of trial for the last more than two years. The petitioner has been in custody since 16.7.2019. 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."

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 two 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. 06 months and 12 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 a condition that he would pay ₹ 25,000/- as compensation to the legal heirs of

deceased Ashwani Kumar.

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 deceased Ashwani Kumar 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 29, 2020
Gurpreet

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