

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 2830 of 2019 (O&M)
Date of Decision: 28.1.2020

Tarsem Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jasdeep Singh Walia, 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 27.8.2019, passed by Sessions Judge, Bathinda, vide which in the appeal filed by him, challenging the judgment of conviction and order of sentence dated 9.8.2017, passed by Sub Divisional Judicial Magistrate, Phul in case FIR No. 25 dated 7.4.2014 under Sections 279, 304-A, 337, 338, 427 IPC, registered at Police Station Sadar Rampura, the conviction and sentence of the petitioner under Section 304-A IPC was maintained and while upholding the conviction of the petitioner under Section 279 IPC, the sentence under Section 279 IPC was set side. Further, the conviction and sentence of the petitioner under Section 337 IPC was set aside.

The brief facts of the present case are that complainant Harjinder Singh had got recorded his statement to the effect that in the

morning of 7.4.2014, he along with Jit Singh, Ex-Sarpanch were returning back to their village after paying obeisance, on their motor cycle bearing registration No. PB-03AA-3029. Gurjit Singh alias Neki was going ahead of them on his motorcycle bearing registration No. PB-03U7124 along with his mother Paramjit Kaur, who was the pillion rider and with a child namely Kewal Singh. When they had reached near Rampura-Maur raod near Fateh Chowk, a truck bearing registration No. RJ-19GA-0313, being driven by Tarsem Singh, came from behind at a fast speed and in rash and negligent manner and without blowing horn and struck the motorcycle being driven by Gurjit Singh. As a result of this, all the occupants of the motorcycle fell down and sustained multiple injuries. Paramjit Kaur, mother of Gurjit Singh, crushed under the tyres of the said truck and died at the spot. The accused fled the spot along with his truck. On the basis of the statement of the complainant, the FIR in question was registered.

After completion of investigation and necessary formalities, challan was presented against the petitioner.

Charges were framed against the petitioner under Sections 279, 337, 338, 304-A and 427 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution had examined as many as 10 witnesses.

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

No witness was examined by the accused in his defence.

The trial Court vide judgement and order dated 9.8.2017

convicted and sentenced the petitioner as under:-

<i>Under Sections</i>	<i>Sentence awarded</i>	<i>Fine imposed</i>	<i>In default of payment of fine</i>
279 IPC	<i>Rigorous imprisonment for six months</i>	<i>Rs. 1000/-</i>	<i>Rigorous imprisonment for one month</i>
337 IPC	<i>Rigorous imprisonment for six months</i>	<i>Rs. 500/-</i>	<i>Rigorous imprisonment for one month</i>
304-A IPC	<i>Rigorous imprisonment for two years</i>	<i>Rs. 5000/-</i>	<i>Rigorous imprisonment for one month</i>

All the sentences were ordered to run concurrently.

In appeal, the conviction and sentence of the petitioner under Section 304-A IPC was maintained and the conviction of the petitioner under Section 279 IPC was upheld whereas order of sentence under Section 279 IPC was set aside. However, the conviction and sentence of the petitioner under Section 337 IPC was set aside.

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

At the very outset, learned counsel appearing for the petitioner, states that without disputing the findings of guilt recorded against the petitioner-accused, he confines his prayer to the quantum of sentence only. Learned counsel contends that the present FIR was registered on 07.4.2014 and that the petitioner has been facing the agony of protracted trial for the last 05 years. Still further, out of the total substantive sentence of two years, the accused-petitioner has already undergone the actual sentence of 05 months. It is, thus, submitted that taking into consideration the period of sentence already undergone by the accused-petitioner, the sentence imposed upon him may be reduced to the period already undergone by him.

I have heard the learned counsel for the parties.

Taking into consideration that the petitioner-accused was driving the truck, bearing registration No. RJ-19GA-0313, in a rash and negligent manner and had caused injuries to the complainant and caused the death of Paramjit Kaur not amounting to culpable homicide, no fault could be found with the judgments and order passed by the Courts below. Still further, as noticed above, learned counsel for the petitioner has rightly not disputed the finding of guilt recorded by the Courts below. In view of the said fact, the conviction of the petitioner under Sections 279 and 304-A IPC is upheld.

Coming to the quantum of sentence, as stated above, the petitioner has already undergone the actual sentence of 05 months out of the total sentence of two years. Taking into account that the petitioner has been facing the agony of protracted trial for the last more than five years, in my opinion, no useful purpose would be served by keeping him behind the bars to undergo the remaining sentence. Rather, ends of justice would be suitably met, if the sentence imposed upon the accused-petitioner is reduced to the period already undergone by him with a condition that the petitioner would pay ₹ 10,000/- as compensation to the legal heirs of deceased Paramjit Kaur.

In view of the above, while maintaining the conviction of the petitioner under Sections 279 and 304-A IPC, the sentence imposed upon him is reduced to the period already undergone by him. However, the sentence of fine and in default thereof, shall remain the same.

The amount of compensation shall be deposited within one month from today with the Chief Judicial Magistrate, concerned, failing which this petition shall be deemed to have been dismissed and the

petitioner would undergo imprisonment as awarded by the appellate Court.
The said amount of compensation be disbursed to the legal heirs of
deceased Paramjit Kaur, on identification.

The petitioner-accused be released forthwith in this case, if not
required in any other case.

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

(HARNARESH SINGH GILL)
JUDGE

January 28, 2020
Gurpreet

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