

CRR-2857-2019 (O & M)

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

CRR-2857-2019 (O & M)
Date of Decision: 12.03.2020

Manpreet Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Simrandeep S. Sandhu, Advocate,
for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J.

Custody certificate by way of affidavit of Deputy Superintendent, District Prison, Mansa, has been filed in the Court today. The same is taken on record.

Challenge in the present petition is to the judgment dated 06.08.2019 passed by the learned Additional Sessions Judge, Mansa, whereby while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 26.11.2015 passed by the learned Sub Divisional Judicial Magistrate, Sardulgarh, has been upheld.

The petitioner was tried for committing the offences under Sections 279, 337, 427 and 304-A IPC. As per the prosecution, on 04.04.2010, complainant-Punit Kumar, Vikash Kumar, Rinku Bala, Shivan Kumar (minor) and Chery (minor) were going to Sirsa in an Alto Car, bearing registration No.PB-10-CJ-

CRR-2857-2019 (O & M)

8602, being driven by Vikas Kumar. When they reached ahead of Bhamme Kalan, a Zen car came there at a high speed from the opposite side. The driver struck the Zen car into the Alto car by taking the same on wrong side. The Zen Car was having No.DL-3CK-4751 and four persons, namely, Manprit Singh, being driver, Bhola Singh, Happy Singh and Makhan Singh were boarded in the same. Vikas Kumar and Rinku Bala received injuries due to the accident. Smell of liquor was coming out from the mouth of the petitioner, who managed to escape when the people gathered there. He removed his brother and sister-in-law to Civil Hospital, Mansa, who were referred to DMC, Ludhiana, due to their critical condition. However, Makhan Singh succumbed to the injuries received in the accident. 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, Renu Bala, Vikas Kumar, Satnam Singh and Harpal Singh had suffered simple injuries and death of Makhan Singh had taken place. Consequently, the petitioner was convicted under Sections 279, 337 and 304-A IPC, but acquitted under Section 427 IPC. He was, accordingly, sentenced as under:

Section	Sentence	In default of payment of fine
279 IPC	Simple imprisonment for six months.	-
337 IPC	Simple imprisonment for six months.	-
304-A IPC	Simple imprisonment for two years and to pay a fine of Rs.1,000/-.	To undergo simple imprisonment for seven days.

CRR-2857-2019 (O & M)

learned trial Court, the petitioner preferred an appeal before the learned Sessions Judge, Mansa. However, vide judgment dated 06.08.2019 passed by the learned Additional Sessions Judge, Mansa, 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.

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 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, Vikas Kumar, Renu Bala, Satnam Singh and Harpal Singh had received simple injuries and death of Makhan 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 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 04.04.2010; that the petitioner had been in custody since the date of dismissal of appeal but was released on parole on 04.03.2020 for two weeks and that

CRR-2857-2019 (O & M)

by now the petitioner has undergone the actual sentence of 06 months and 28 days 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.

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

CRR-2857-2019 (O & M)

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 noticed above, the petitioner has already undergone the actual sentence of 06 months and 28 days 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 surrender on 19.03.2020 i.e. after completion of parole period availed by him. The impugned judgments of conviction and order of sentence, including default clause, stand affirmed with aforesaid modification. It is made clear that in case the petitioner surrenders before the jail authority on 19.03.2020, he shall be released forthwith.

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

12.03.2020

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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