

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

226

CRR-485-2020

Date of Decision : 06.12.2021

Rajinder Singh @ Harjinder Singh**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Tejinder Pal Singh, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral

The present revision petition has been filed against the order dated 04.05.2018 passed by the Additional Chief Judicial Magistrate, Sangrur by which, the petitioner was held guilty of the offences punishable under Sections 279 and 304-A of the IPC and was sentenced to undergo rigorous imprisonment for a period of six months for commission of offence under Section 279 of the IPC and to undergo rigorous imprisonment for a period of two years for commission of offence under Section 304-A of the IPC along with fine of Rs.500/- and Rs.4000/- respectively as well as against the order dated 08.11.2019 passed by the Additional Sessions Judge, Sangrur, by which, the appeal preferred by the petitioner against the judgement of conviction and sentence dated 04.05.2018, has been rejected.

Learned counsel for the petitioner argues that though, various grounds have been raised in this revision petition to assail the orders passed by the learned trial Court as well as learned lower Appellate Court but, keeping in view the fact that the petitioner is a young man aged 24 years,

petitioner restricts his prayer with regard to the quantum of sentence awarded to him. Learned counsel for the petitioner submits that while awarding the sentence to the petitioner, the factors leading to the conviction, which include defence of the accused, age factor of the accused and the degree of negligence being attributed have not been considered. Learned counsel for the petitioner submits that no reason so as to why maximum sentence provided under law, has been imposed upon the petitioner is borne out of the order awarding sentence, hence, he prays that the quantum of sentence imposed upon the petitioner may kindly be revised.

Learned State counsel submits that a person has lost his life due to the negligent act of the petitioner therefore, sentence of two years of rigorous imprisonment awarded to the petitioner in respect of offence under Section 304-A of the IPC, cannot be said to be excessive.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the present case, as per the allegations, due to the rash and negligent driving of the petitioner, the motorcycle being driven by the petitioner collided with the motorcycle of the victim, in which accident, a life was lost. The said accident is stated to have occurred in the dark. For awarding maximum sentence under Section 304-A of the IPC, negligent act attributed to the accused has to be of such a nature that it shocks the conscience of a common man so as to justify the imposition of maximum sentence prescribed for the offence. Argument of the learned counsel for the petitioner that present is not a case of negligence of such magnitude, which would entail maximum punishment prescribed for the said offence and in the orders of the trial Court as well as Lower Appellate Court, no reason has

been given for imposing maximum punishment prescribed keeping in view the facts and circumstance of the present case hence, the imposition of maximum sentence needs reconsideration, cannot be brushed aside.

When the maximum punishment prescribed for an offence is being imposed, the reasons have to be incorporated for the same. Maximum punishment is to be imposed, where the negligence is extreme. It is not that in all kinds of negligence, which results into death, a punishment of two years is to be imposed. Section 304-A of the IPC clearly prescribes that for the said offence, maximum punishment can be 'upto two years'. Wording of the statute proves that the Court while awarding the sentence has to keep into account the gravity of the offence and magnitude of negligence being attributed to the accused as well as other circumstances related to the incident which sentence can be upto 2 years, which consideration at the hands of the Courts below, in the present case, is missing.

Keeping in view the facts and circumstances of this case, wherein the petitioner has offered his explanation regarding the said accident, though, not accepted by the Court and also the fact that the petitioner is a young man of 24 years of age, who is yet to start his career as well as in view the fact that out of the total awarded sentence of two years, the petitioner has already undergone sentence of 01 year and 03 months, justice will prevail in case, the said sentence is reduced to 01 year and 06 months from 02 years as awarded by the trial Court vide order dated 04.05.2018, which has been upheld by the lower Appellate Court vide order dated 08.11.2019. Thus, the present revision petition is allowed to the extent that the sentence awarded to the petitioner by the trial Court vide order

dated 04.05.2018 is reduced from 02 years to 01 year and 06 months.

The present petition stands disposed of in the above terms.

December 06, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

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