

**CRR-688-2020**

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

**CRR-688-2020 (O & M)  
Date of decision: 20.09.2021**

Lekh Raj

...Petitioner

Versus

State of Punjab

.....Respondent

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

Present:- Mr. Anil Kumar Malik, Advocate,  
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

**HARNARESH SINGH GILL, J.**

Custody certificate dated 14.09.2021, by way of affidavit of the Deputy Superintendent, New District Jail Nabha, filed in the Court today, is taken on record.

The petitioner was tried in case bearing FIR No.120 dated 28.09.2016, registered at Police Station Sirhind, under Sections 279, 337, 304-A and 427 IPC. The Additional Chief Judicial Magistrate, Fatehgarh Sahib, vide judgment and order dated 22.12.2017, found the petitioner guilty for the offences punishable under Sections 279, 337 and 304-A IPC, and sentenced him as under:

| <b>Section</b> | <b>Sentence</b>                                                                                                                                                                               |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 279 IPC        | <i>To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/- and in default of payment of fine, to undergo the imprisonment for a period of seven days.</i> |
| 337 IPC        | <i>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 the imprisonment for a period of seven days.</i>   |

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|           |                                                                                                                                                                                        |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 304-A IPC | To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.10,000/- and in default of payment of fine, to undergo the imprisonment for a period of two months. |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The fine so imposed upon the petitioner to the tune of Rs.11,500/- was ordered to be paid to the complainant by way of compensation under Section 357 Cr.P.C.

Aggrieved of the judgment and order passed by the Additional Chief Judicial Magistrate, Fatehgarh Sahib, the petitioner filed an appeal. Vide impugned judgment dated 16.01.2020, the learned Additional Sessions Judge, Fatehgarh Sahib, partly allowed the appeal and acquitted the petitioner under Section 337 IPC and the fine imposed by the trial Court under the said section, was ordered to be refunded to the petitioner. However, the conviction awarded to the petitioner under Sections 279 and 304-A IPC, as stated above, was upheld.

The facts of prosecution case, as noticed by the learned Additional Sessions Judge, Fatehgarh Sahib, are as under:

*“2. In brief the case of prosecution before the Ld. Trial Court has been that on 28.09.2016, on the basis of information received through telephone regarding the accident occurred near Madhopur Chowk. Statement of complainant Bikramjit Singh son of Gurmukh Singh was recorded by SI Jaswant Singh. It was got recorded in that statement by complainant Bikramjit Singh that he is resident of village Nabipur, Police Station Sirhind and is doing the agriculture work. He on his motorcycle and his nephew Arshdeep Singh son of Rajwinder Singh and his friend Dilpreet Singh son of Joginder Singh were going to the house of Dilpreet Singh. Arshdeep Singh and his friend*

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*Dilpreet Singh were on their scooteri Hero Maistro and he was following them. At about 7.30 P.M, they were about to cross the road near Madhopur Chowk, one truck came in a rash and negligent manner at a very high speed and struck the same against the scooteri of his nephew due to which both of them fell down. The front tyre of the truck crushed the head of his nephew due to which Arshdeep Singh died on the spot. Dilpreet Singh received injuries and the scooteri was also damaged. The truck driver came to him. He noted down the number of the truck as HR-64-8797. The truck driver disclosed his name as Lekh Raj. On seeing the gathering, the accused fled away from the spot leaving behind the truck. On the basis of statement of complainant FIR was registered, followed by investigations, during the course whereof postmortem of the dead body of deceased Arshdeep Singh was got conducted and after postmortem dead body of said deceased was handed over to his relatives. On 1.10.2016 the accused was arrested and was released on bail. After registration of FIR, investigation was conducted and on the basis of preparation of various documents, challan was prepared and was filed in the trial Court.”*

After completion of the investigation and necessary formalities, challan was presented against the petitioner in the court for trial.

After framing the charges against the petitioner for the offence committed under Sections 279, 337 and 304-A IPC, the prosecution examined as many as eight witnesses. Thereafter, statement of the petitioner under Section 313 Cr.P.C. was recorded, wherein he denied the case of the prosecution and pleaded innocence. However, in his defence, the petitioner did not

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examine any witness.

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, Dilpreet Singh had received simple injuries and Arshdeep Singh had succumbed to the injuries. Resultantly, the petitioner was convicted under Sections 279, 337 and 304-A IPC. He was, accordingly, sentenced under the aforesaid sections, as noticed above.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioner preferred an appeal before the learned Sessions Judge, Fatehgarh Sahib. However, vide judgment dated 16.01.2020 passed by the learned Additional Sessions Judge, Fatehgarh Sahib, the appeal was partly allowed, as noticed above.

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

Learned counsel for the petitioner would contend that both the courts below have not appreciated the evidence in right perspective and, therefore, the impugned judgments and order of sentence passed by the courts below, convicting the petitioner under Sections 279 and 304-A IPC, suffer from illegality. The learned counsel would further contend that the petitioner had not caused the alleged accident and was falsely implicated. The learned counsel would further contend that the identification of the petitioner being a driver of the offending vehicle, is not established on record. The learned counsel would further contend that both the courts below have not appreciated the contributory

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negligence on the part of the deceased. The learned counsel would further contend that there are material contradictions in the statements of complainant-Bikramjit Singh and eye-witness Dilpreet Singh. Lastly, the learned counsel would submit that the petitioner deserves to be acquitted under Sections 279 and 304-A IPC.

Alternatively, learned counsel for the petitioner would contend that in case, this Court is not inclined to interfere with the findings recorded by the courts below, then the sentence imposed upon the petitioner may be reduced to the one already undergone by him.

Conversely, zeroing in on the arguments of the learned counsel for the petitioner, learned State counsel would submit that both the courts below while relying upon the oral as well as the documentary evidence led by the prosecution, have rightly convicted the petitioner. He would further submit that the identity of the petitioner as well as that of vehicle involved in the accident, was duly established from the testimony of the eye-witness. He would further submit that the impugned judgments and order of sentence passed by the courts below do not suffer from any illegality or perversity.

I have heard the learned counsel for the parties.

Having heard the learned counsel for the parties and after a lucid examination of the record, this Court finds that the statements of witnesses i.e. PW 4 Bikramjit Singh (complainant) and PW 5 Dilpreet Singh (eye-witness) are consistent to the effect that owing to the rash and negligent driving of the truck driven by

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the petitioner, the accident took place and Arshdeep Singh had succumbed to the injuries received in the accident. Except for bare denial of negligence on the part of the petitioner, he had not produced any evidence, rebutting the prosecution evidence. Both the courts below have rightly noticed that there is nothing on record to state that the deceased had attributed his negligence in causing the accident. Learned counsel for the petitioner has failed to point out any major discrepancies in the statements of the prosecution evidence, which could lead to the acquittal of the petitioner in the present case.

Moreover, in revisional jurisdiction, this Court cannot sit in appeal and re-appreciate the evidence. It is a supervisory jurisdiction which is exercised by the Court to correct the manifest error in the orders of subordinate courts but it should not be exercised in a manner so as to turn the revisional court into a Court of Appeal. However in the present case, learned counsel for the petitioner has failed to point out any manifest error committed by the courts below while convicting the petitioner under Sections 279 and 304-A IPC.

Thus, in my opinion, in view of the evidence on record, there is no scope for least interference in the findings of the Courts below, so far as the conviction under Sections 279 and 304-A IPC is concerned. Hence, the conviction of the petitioner under Sections 279 and 304-A IPC is upheld.

However, the fact remains that the present FIR was registered on 28.09.2016 and by now, the petitioner has undergone the actual sentence of 06 months and 20 days out of

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the total sentence of 02 years. He has also earned remissions of 25 days.

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 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.”*

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In view of the above, 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, while upholding the conviction of the petitioner under Sections 279 and 304-A IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him. The fine imposed upon the petitioner along with its default clause, under both the aforesaid sections is maintained. Apart from that, the petitioner is directed to pay a sum of Rs.25,000/- as compensation to the legal heirs of deceased-Arshdeep Singh, within a period of two months from today. It is made clear that in case, the compensation amount is not paid within the time stipulated, the present revision petition shall be deemed to have been dismissed. The petitioner be released forthwith, if not required in any other case.

Revision Petition is disposed of in the above terms.

**20.09.2021**

parveen kumar

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

|                            |        |
|----------------------------|--------|
| Whether reasoned/speaking? | Yes/No |
| Whether reportable?        | Yes/No |