

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRR-532-2019**

DATE OF DECISION: OCTOBER 11, 2021

KESAR SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.**

PRESENT: MR. S.P. SOI, ADVOCATE FOR THE PETITIONER.  
MR. RAMANDEEP SANDHU, SR.DAG, PUNJAB.

**MANOJ BAJAJ, J.(ORAL)**

The petitioner has preferred this criminal revision petition challenging the Appellate Court judgment dated 5.2.2019, passed by the learned Addl. Sessions Judge, Sangrur, whereby the Criminal Appeal No.104 dated 15.12.2017, against the judgment of conviction dated 28.11.2017, passed by the Judicial Magistrate 1<sup>st</sup> Class, Dhuri in case FIR No.206 dated 2.9.2013, under Section 304-A, 279, 427 IPC, Police Station Sadar, Dhuri, was dismissed and the order of sentence dated 15.12.2017, imposed by the trial Court was also maintained.

The facts leading to the revision petition are noticed below.

On 1.9.2013 at about 5.45 p.m., an information regarding vehicular accident was received by a police team and on reaching at the spot, Gurnam Singh met them and stated that his grandson Sukhviri Singh would describe the chain of events on his getting well. On 2.9.2013, ASI Gurpal Singh alongwith other police officials visited Civil Hospital, Dhuri, where Sukhviri Singh stated that he was working as Transporter. On

1.9.2013 at about 5.15 p.m., his brother Lakhvir Singh was going from village Mulowal to Dhuri on a motorcycle of his friend bearing registration No.PB-36B-3901 and he and his friend were also following him. When they reached near bridge drain in the area of village Rajomajra, one Punjab Roadways bus bearing registration No.PB-11Z-0412 was seen coming from the front side at a very high speed and rammed into his brother Lakhvir Singh's motorcycle, due to which he died on the spot. The driver of the bus ran away from the spot after leaving the bus, later on whose name was revealed as Kesar Singh. On the basis of said statement, FIR was registered.

After completion of investigation, final report under Section 173 Cr.P.C. was filed before the trial Court, and upon consideration the charges were framed against the accused/petitioner who pleaded innocence and claimed trial. In order to discharge the onus, the prosecution examined eleven witnesses. Thereafter, statement of accused was recorded under Section 313 Cr.P.C. who pleaded false implication, however, no evidence was led by him in his defence.

The trial Court after examining the evidence on record found the accused guilty for commission of offences punishable under Section 279, 304A IPC and accordingly, he was convicted and a sentence of 2 years rigorous imprisonment alongwith a fine of ₹1000/- was imposed upon him, and in default he was directed to further undergo simple imprisonment for 15 days.

Aggrieved against the said judgement of conviction and order of sentence dated 28.11.2017, passed by the trial Court, an appeal was filed by the convict before the Addl. Sessions Judge, Sangrur who vide impugned

judgement dated 15.12.2017, dismissed the appeal and affirmed the trial Court verdict. The appellate Court also declined the petitioner's request for releasing him on probation, in view of the judgement of Hon'ble Supreme Court in **Dalbir Singh vs. State of Haryana and Ors, 2000(2) RCR Crl.816.**

Dissatisfied with the appellate Court judgement, the convict has preferred this revision petition.

On 5.3.2019, this Court had issued notice only on quantum of sentence. Today, learned counsel for the petitioner has again fairly stated that he does not challenge the conviction part recorded by the Courts below in the impugned judgements and confines his prayer only for reduction of sentence. He submits that the petitioner has already undergone approximately a period of an year, therefore, his sentence be reduced to the period already undergone.

On the other hand, learned State counsel has opposed the prayer and submitted that the sentence imposed by the Courts below is adequate. He has produced the custody certificate dated 9.10.2021, by way of affidavit Jaspreet Singh, Deputy Superintendent, District Jail Sangrur which indicates that the petitioner has undergone a period of 1 year and 4 months, who was also involved in a similar case bearing FIR No.104/2014, under Section 279, 304-A IPC, Police Station Division No.04, Patiala, however, the trial in the said case ended in his acquittal.

After hearing learned counsel for the parties and considering the background of this case, this Court is of the opinion that the sentence imposed by the trial Court and upheld by the appellate Court is proportionate to the guilt of the convict. The aim and object of sentence

pursuant to the conviction in a criminal case is meant to convey a clear message to the public/society so that it may act as a deterrent factor. Therefore, leniency in sentencing part may defeat the purpose of law of punishments. In the present case, no mitigating or extraordinary circumstance has been highlighted by learned counsel for the petitioner to reduce the sentence.

Resultantly, no interference is called for in the sentence part of the impugned judgement passed by the appellate Court.

Revision petition is dismissed.

October 11, 2021  
Gulati

**(MANOJ BAJAJ)**  
**JUDGE**

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No