

CRR-427-2021

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

CRR-427-2021 (O & M)
Date of decision:19.08.2021

Gagan @ Gagandeep Singh

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Surinder Garg, Advocate,
for the petitioner.

Mr. Pardeep Prakash Chahar, DAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioner was tried in case bearing FIR No.136 dated 30.04.2014, registered at Police Station City Dabwali, under Sections 279, 304-A and 427 IPC. The Sub Divisional Judicial Magistrate, Dabwali, vide judgment and order dated 09.09.2015, found the petitioner guilty for offences punishable under Sections 279 and 304-A IPC, and sentenced him as under:

Section	Sentence
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 simple imprisonment for a period of ten days.</i>
304-A IPC	<i>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 simple imprisonment for a period of one month.</i>

Aggrieved of the judgment and order passed by the Sub Divisional Judicial Magistrate, Dabwali, the petitioner filed an appeal. However, vide impugned judgment dated 07.08.2019, the

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learned Additional Sessions Judge, Sirsa, partly allowed the appeal filed by the petitioner by reducing the sentence as under:

Section	Sentence
279 IPC	<i>To undergo rigorous imprisonment for a period of three months.</i>
304-A IPC	<i>To undergo rigorous imprisonment for a period of one year.</i>

However, the fine imposed upon the petitioner by the trial Court under the aforesaid sections and default stipulation, has been upheld by the learned Additional Sessions Judge, Sirsa.

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

“The brief facts of the case of the prosecution are that the present case was registered on 30.04.2014 on the statement of complainant Lakhbir Singh, recorded by ESI Hans Raj at CHC, Dabwali, who reached there on receipt of a ruqa from CHC, Dabwali regarding his admission in a road side accident. It was, inter-alia, stated by the complainant that on 30.04.2014, he came to Dabwali on his motorcycle for some personal work and prior to him, his cousin Sukhvir Singh, resident of village Panniwala Morika had come to Dabwali on his motorcycle for getting medicine. After finishing their work, they both started for their village Panniwala Morika on their respective motorcycles and his cousin Sukhvir Singh, who was employed in Verka Milk Plant, was going ahead of him on his motorcycle and he (complainant) was following him on his separate motorcycle. In the meantime, a car bearing registration No. UP-16-2633 which was being driven by its driver in a rash and negligent manner, was going towards village Panniwala Morika from village Jogewala which hit the motorcycle of his cousin from the rear side as a result

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of which his cousin was dragged upto 10 steps and then the motorcycle struck against a kikar tree. His cousin Sukhvir died at the spot due to the injuries received by him in the accident and his motorcycle was badly damaged. Lateron, he came to know the name of the driver of the offending car as Gagan son of Sohan Lal, resident of Desu Jodha. Thereafter, the dead body of the deceased was shifted to CHC, Dabwali, in an Ambulance which was called by him at the spot where the doctor declared him as dead. On the basis of the aforesaid statement, the present case was registered and the matter was investigated. During investigation, the police visited the spot, prepared rough site plan and recorded statements of the witnesses. Post Mortem examination on the dead body of the deceased was got conducted by the police. The accused was arrested in this case.”

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 and 304-A IPC, the prosecution examined as many as seven 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.

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, Sukhvir Singh had received serious injuries and consequently, he succumbed to the said injuries.

Resultantly, the petitioner was convicted under Sections 279 and

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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, Sirsa. However, vide judgment dated 07.08.2019 passed by the learned Additional Sessions Judge, Sirsa, the appeal was partly allowed, as noticed above.

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

I have heard the learned counsel for the parties.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offences under Sections 279 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, death of Sukhvir Singh, took 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 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 present FIR was registered on 30.04.2014; that by now, the petitioner has undergone 06 months and 25 days out of the total sentence of 01 year. Thus, it is prayed that the sentence imposed upon the petitioner may be reduced to the period already

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undergone by him.

On the other hand, learned State counsel while opposing the prayer of the learned counsel for the petitioner states that learned Appellate Court has already taken a very lenient view, when the sentence of two years, as awarded by the trial Court to the petitioner, was reduced to one year. He further states that even 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

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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."

As noticed above, the petitioner has already undergone 06 months and 25 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, 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, is maintained. The petitioner be released forthwith, if not required in any other case.

Revision Petition is disposed of in the above terms.

19.08.2021

parveen kumar

**(HARNARESH SINGH GILL)
JUDGE**

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