

**(217) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-976-2019 (O&M)

Date of Decision:28.09.2021

Gurmit Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present : Mr. Naveen Bawa, Advocate for the petitioner.

Mr. Saurav Khurana, D.A.G. Punjab.

VIKAS BAHL, J. (Oral)

Case is taken up for hearing through video conferencing.

This revision has been filed challenging the judgment dated 24.09.2018 passed by the Judicial Magistrate Ist Class, Amritsar, vide which the petitioner has been convicted in FIR No.13 dated 16.01.2014 registered under Sections 279, 304-A IPC at Police Station Gharinda as under:

Under Section 279 IPC	Rigorous imprisonment of six months and fine to the tune of Rs.500/-. In default of payment of fine to further undergo RI for 15 days.
Under Section 304-A IPC	Rigorous imprisonment of Two years and fine to the tune of Rs.2000/-. In default of payment of fine to further undergo RI of 1 month

The appeal against the said conviction order was also dismissed vide judgment dated 21.1.2019 and sentence has been upheld.

Briefly put the case of the prosecution is that FIR in question has been registered on the basis of the statement made on 16.1.2014 by one Karaj Singh to the effect that on 15.01.2014 at about 9:00 p.m, he alongwith Nirmal Singh and Daljit Singh were present at Adda Khasa and were waiting for a vehicle for the purpose of going to their houses. Meanwhile, an Alto car silver colored bearing registration no.PB02-BV-4945 came at a

very high speed from Amritsar side which hit Nirmal Singh who fell down and became unconscious and both the legs of Nirmal Singh were fractured and driver of the car fled away from the spot. The name of the driver later came to be known as Gurmit Singh. Thereafter, Karaj Singh and Daljit Singh arranged a vehicle and admitted Nirmal Singh to Amandeep Hospital where he was declared dead. The said death was alleged to have been taken place due to the rash and negligent driving of the driver Gurmit Singh. Consequently, FIR in question was registered. On completion of investigation, challan was presented and charges under Sections 279 IPC and 304 IPC were framed. The prosecution had examined nine witnesses. PW-1 was the complainant-Karaj Singh and PW-2 was the eye witness of the accident and the said witnesses had fully corroborated the prosecution version. PW-3/HC Lakhbir Singh, PW-4/Kuljit Singh, PW-5/Rakesh Kumar, PW-7 Sawinder Kaur, Clerk, DTO office, PW-8 ASI Davinder Kumar and PW-9 Dr. Sandeep Kakkar had also fully proved that the accident had taken place due to the rash and negligent driving of the petitioner and death had occurred on account of the said accident. The trial Court after considering the entire evidence and documents on record had convicted and sentenced the petitioner as aforesaid. The maximum sentence was for two years rigorous imprisonment.

The petitioner filed an appeal and the Additional Sessions Judge, Amritsar, vide his judgment dated 21.01.2019 after re-appreciating the entire material on record, including the evidence of the witnesses and the documents produced, dismissed the appeal of the petitioner. It is against the said judgment dated 21.01.2019 passed by the learned Additional Sessions Judge, Amritsar, that the present revision petition has been filed.

During the course of arguments, learned counsel for the petitioner has submitted that though he does not wish to challenge the conviction of the petitioner under Sections 279 and 304-A IPC but he would be satisfied if a lenient view is taken with respect to the sentence which has been awarded to the petitioner. In this regard, it is submitted that FIR is of the year 2014 and thus, the petitioner had suffered the agony of the trial/appeal/revision for all these years and the petitioner was granted bail/suspension of sentence but he has never misused that concession. It is further submitted that the petitioner is 45 years of age and has two unmarried children and he is the only bread winner in the family. It is further submitted that the petitioner has already undergone 1 year and 4 months approximately of actual custody out of the total sentence of 2 years.

In support of his arguments, learned counsel for the petitioner has relied upon **CRR-1931-2010** decided on 23.07.2019 titled as ***Chander Bhan v. State of Haryana*** in which in a case where the petitioner had actually undergone sentence of 04 months and 07 days in a case under Sections 279 and 304-A IPC, this Court has suspended the sentence by imposing a fine of Rs.25,000/- and the judgment of the Hon'ble Supreme Court in ***State of Punjab v. Saurabh Bakshi, reported as 2015 (2) RCR (Criminal) 495*** was considered. Further reliance has been placed upon a judgment of this Court in **CRR-4830-2016** decided on 08.03.2017 titled as ***"Balwinder Singh @ Binder v. State of Punjab"*** in which case also the sentence was reduced to four months in a case of conviction under Section 279/304-A IPC where rigorous imprisonment was awarded for 02 years. In the said case also, the judgment of the Hon'ble Supreme Court in Saurabh Bakshi's case (supra) was considered. Further, reliance has also been placed

upon case of *Jaswant Singh v. State of Punjab*, CRR-1239-2012 decided on 29.08.2019, reported as **2020 (1) RCR (Criminal) 163**, In which also after taking into consideration the judgment of the Hon'ble Supreme Court in Saurabh Bakshi's case (supra), the sentence was reduced to already undergone.

Learned State counsel has submitted that judgments of both the courts below have been passed after considering the entire evidence and material on record. The other factual aspects have not been rebutted by the learned State counsel.

This Court has heard learned counsel for the parties.

Insofar as the conviction of the present petitioner under Sections 279/304-A IPC is concerned, this Court is of the view that both the Courts have considered the entire evidence and material on record in detail and have rightly come to the conclusion that it was the petitioner who was involved in the accident. PW-1 and PW-2 who are complainant as well as the eye witnesses of the occurrence, have duly identified the petitioner and stated that due to the rash and negligent driving of the petitioner, the deceased had died. PW-9, who is Doctor, had also proved that the death had taken place on account of the accident in question. The other witnesses have also fully supported the case of the prosecution and produced relevant documents on record. Nothing has come on record during cross examination so as to demolish the case of the prosecution and thus, the conviction under Sections 279/304-A IPC is upheld.

Insofar as the sentence which has been awarded to the petitioner is concerned, this Court is of the view that the accident in the present case is of the year 2014 and the petitioner has never misused the

concession of bail/suspension of sentence. Further, the petitioner being 45 years of age having two unmarried children to take care of is the sole bread earner of the family and has also undergone about 1 year and 4 months approximately of actual custody. Therefore, it is ordered that sentence awarded to the petitioner be reduced to the period already undergone by him and the fine of Rs.2500/- which had been awarded by the trial Court and has already been deposited by the petitioner, is enhanced to Rs.32,500/-. Thus, the petitioner is directed to deposit the balance amount of Rs.30,000/- before the concerned Chief Judicial Magistrate within a period of two months from the date of receipt of certified copy of this order. However, it is made clear that in case the balance amount as directed is not deposited by the petitioner within the stipulated period, the present revision petition would be deemed to have been dismissed. Concerned Chief Judicial Magistrate, after the petitioner depositing the enhanced amount as aforesaid, would issue notice to the legal representatives of the deceased-Nirmal Singh and release the said amount to the said legal representatives of the deceased.

With the above observations, this revision petition is disposed of.

(VIKAS BAHL)
JUDGE

28.09.2021
rajeev

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**