

[150] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1261-2019 (O&M)
Date of Decision : 06.10.2021

Jaswinder Singh

...Petitioner

Versus

State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Amit Jaiswal, Advocate for the petitioner.
Mr. Bhupinder Beniwal, AAG, Punjab.

B.S. Walia, J. (Oral)

[1] Prayer in the revision petition is for setting aside judgment of conviction and order of sentence dated 13.07.2018 passed by the learned Judicial Magistrate 1st Class, Dhuri as well as judgment dated 12.02.2019 passed by the learned Sessions Judge, Sangrur dismissing the appeal filed by the petitioner.

[2] Learned counsel contends that petitioner was convicted and sentenced in the instant case to undergo the following imprisonment:-

<i>Name of the convict</i>	<i>Sentenced Under Section</i>	<i>Period of sentence</i>	<i>Fine, if any</i>
<i>Jaswinder Singh</i>	<i>304-A IPC</i>	<i>Rigorous Imprisonment for two years</i>	<i>Rs.1000/-</i>
	<i>337 IPC</i>	<i>Rigorous Imprisonment for six months</i>	<i>Nil</i>
	<i>338 IPC</i>	<i>Rigorous Imprisonment for two years</i>	<i>Rs.1000/-</i>
	<i>279 IPC</i>	<i>Rigorous Imprisonment for six months</i>	<i>Nil</i>

with sentences awarded to run concurrently and period of detention already undergone by the convict during the trial or investigation to be set off against the substantive sentence awarded by the learned Judicial

Magistrate 1st Class, Dhuri. Appeal against the same was dismissed by the learned Sessions Judge, Sangrur vide judgment dated 12.02.2019.

[3] Learned counsel further contends that as per the prosecution version, the petitioner caused an accident leading to the death of Parminder Singh son of Surjit Singh due to rashly and negligently driving his Mahindra Bolero Jeep.

[4] Learned counsel contends prays for a compassionate view to be taken in the matter and reduction of punishment awarded to that already undergone by the petitioner in view of

(i) petitioner being only 21 years of age at the time of accident as his date of birth is 10.1.1993 ;

(ii) petitioner having faced a criminal trial and that too for a long period of time at a relatively young age ;

(iii) petitioner as on date, having undergone 01 year 07 months imprisonment out of total substantive sentence of two years;

(iv) good part of the crucial years of the petitioner's life have been spent in the instant litigation ;

(v) petitioner does not have any criminal background ;

(vi) petitioner belongs to a respected family of Village Harchandpur, District Sangrur ;

(vii) continued detention of the petitioner would be counter-productive to the dual role of deterrence and reformation ;

(viii) most importantly, even if the prosecution story accepted as it is, still the petitioner's conduct was that of a responsible citizen as he did not run away from the spot after the accident. The petitioner was driving the ill

-fated vehicle which caused the accident while his father Mohinder Singh was accompanying him and it was the petitioner and his father who took the deceased and the other injured namely Amandeep Singh (PW-2) to Civil Hospital, Dhuri in the Mahindra Bolero Jeep and the same is evident from line 15 at page No.2 of the trial Court judgment i.e. page No.28 of the paper-book, first three lines of page No.13 of the Appellate Court judgment i.e. page No.20 of the paper-book, Ex.P-1 i.e. statement of the complainant on the basis of which FIR was registered, Ex.PW-5/B i.e. the FIR, Rukka (Ex.PW-9/D) dated 08.08.2014 sent to the police by the doctor of the Civil Hospital which bears the name of the father of the petitioner namely Mohinder Singh as the person who brought the deceased to the hospital, besides paragraph No.19 of the Appellate Court judgment at page No.18 of the paper-book, post-mortem report (Ex.PW-9/B) of the deceased, besides, the offending vehicle i.e. Mahindra Bolero having been taken into possession by the police from the Civil Hospital, Sangrur as is evident from the last five lines of para No.12 of the trial Court judgment on page No.35 of the paper-book.

[5] Learned counsel contends that in the light of the aforementioned position, it is apparent that the conduct of the petitioner entitles him to a compassionate view being taken in the matter as he did not shirk his responsibility to assist the injured persons on the unfortunate accident having taken place. Learned counsel relies upon the decision of a Co-ordinate Bench of this Court in ***CRR No.3979 of 2014 in case titled as Karam Singh vs. The State of Haryana, Amarjeet Singh vs. State of Punjab, 2019 (4) RCR (Crl.) 767 and Roshan vs. State of Haryana,***

2019 (4) Law Herald 2878.

[6] Learned State counsel on the other hand does not seriously oppose the prayer of the petitioner and contends that as per custody certificate, the petitioner has undergone sentence of 01 year 07 months and 11 days including remission, besides he is on parole till 13.10.2021. The custody certificate is taken on record.

[7] I have considered the submissions of learned counsel for the parties.

[8] Admittedly, the petitioner was 21 years of age at the time of accident as his date of birth is 10.01.1993. Undoubtedly, he has faced the rigors of a criminal trial at a young age and has also undergone 01 year 07 months and 11 days sentence including remission instead of pursuing a career in his formative years of life. The facts of the case also reveal that although a stand was taken during trial of the accident not having been caused by the petitioner, yet it is a matter of record that the petitioner and his father took the injured to the Hospital in their Mahindra Bolero Jeep for getting medical treatment and the petitioner did not run away from the spot after the accident. The petitioner does not have any criminal background, and as has been stated above belongs to a respectable family of Village Harchandpur, District Sangrur. Although unfortunately Parminder Singh lost his life in the accident, yet the conduct of the petitioner reveals that the petitioner did not abandon the deceased, nor tried to run away rather took the injured persons to Civil Hospital for getting medical treatment. The petitioner has already undergone substantial part of the sentence and on query, learned State

counsel states that there is nothing adverse against the petitioner during the period, he was in custody. In the circumstances, it would be in the interest of justice to grant opportunity to the petitioner to rejoin the main stream of society by converting the sentence imposed on him to that already undergone.

[9] Accordingly, in the light of the position as noted above, the revision petition is partly allowed. Order of sentence dated 13.07.2018 passed by the learned Judicial Magistrate 1st Class, Dhuri as well as the judgment dated 12.02.2019 passed by the learned Sessions Judge, Sangrur are modified and the sentence awarded to the petitioner is reduced to the period of sentence already undergone i.e. 01 year 07 months and 11 days including remissions as on date and in the circumstances, the petitioner who is already on parole uptill 13.10.2021 is not required to be sent to jail in the instant case subject to completion of formalities, provided he is not required in connection with any other criminal case.

(B.S. Walia)
Judge

06.10.2021
'Amit'

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