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

CRR-1258-2010

Date of decision :03.09.2021

Manjit Singh

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arshvir Singh Sandhu, Advocate for the petitioner.

Mr. P.S. Walia, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

The challenge in the present criminal revision petition is to the judgment dated 27.11.2006 passed by Addl. Chief Judicial Magistrate, Barnala, vide which the petitioner has been convicted in the following terms:-

“1. For committing offence punishable U/s 279 IPC, to undergo imprisonment for a period of six months.

2. For committing offence punishable U/s 304A IPC to undergo imprisonment for a period of two years and pay fine of Rs.5000/-.

3. In default of payment of fine, he shall further undergo simple imprisonment for three months;

4. For committing offence punishable U/s 337 IPC to undergo imprisonment for a period of six months.

5. All the sentence shall run concurrently.”

The challenge is also to the judgment dated 24.04.2010 vide which the appeal filed by the present petitioner was also dismissed.

Briefly, stated that the case of the prosecution is that on 23.03.2003 after receiving the medical docket from SMO, CHC, Bhadaur with respect to the death of Jagsir Singh and injuries received by Kiratpal Singh and Nirlep Kaur, SI Karnail Singh along with other police officials reached there and after the doctor had opined that Kiratpal Singh was fit, had recorded his statement Ex.PE, which was to the effect that the complainant was a student of 10th Class and his father Jagsir Singh was posted as Pharmacist in Civil Hospital, Bhadaur and on 23.03.2003 at 02.00 PM he along with his younger sister Nirlep Kaur and his father were going on a scooter bearing No.PB-19A-9994, when one tractor-trolley Eicher Marka red in colour came ahead of the scooter of the deceased and when the scooter of the deceased became parallel to the tractor, the driver of the tractor without any indication turned the tractor towards the right hand side in a rash and negligent manner on account of which a collision took place between the tractor and the scooter and in the said incident, the father and sister of the complainant as well as the complainant received injuries. As per the statement of the complainant, the tractor even dragged the scooter due to which the scooter got damaged. The driver was stated to be a young man about 23-24 years of age and the complainant has stated that he could identify him if produced before him. The father of the complainant died at the spot. On the basis of the statement of the complainant,

a formal FIR was registered; the tractor-trolley as well as scooter were taken into possession; and after the investigation was completed, the challan was presented and after finding the prima facie case, charges were framed against the petitioner for the offence punishable under Sections 279, 304-A, 337 IPC, as to which the petitioner pleaded not guilty and claimed trial.

The prosecution examined as many as 09 witnesses. PW-1 Constable Satpal Singh has proved the mechanical report of the scooter. PW-2 Dr. Subash Singla has proved the post-mortem report of Jagsir Singh and found six injuries on the person of Jagsir Singh. He has deposed that the cause of death in the present case was due to shock and haemorrhage as a result of injuries, which were ante-mortem in nature and sufficient to cause the death in the ordinary course of nature. PW-9 Dr. Raj Kumar has proved the MLR with respect to Nirlep Kaur who had also received four injuries as well as the MLR of Kiratpal Singh who had received two injuries. PW-3 S.I. Karnail Singh was the Investigating Officer and he has proved several documents including recovery memo vide which the tractor-trolley was recovered. PW-4 Kiratpal Singh was the injured complainant in the case who fully supported the case of the prosecution and also identified the accused. PW-6 Gurbax Singh has proved the photographs of the place of accident. PW-7 Resham Singh has proved the driving licence in the name of Manjit Singh. PW-8 ASI Gurmail Singh has proved the copy of the FIR.

The statement of the accused were recorded under Section 313 Cr.P.C. and the entire incriminating material was put to him. Learned trial Court after considering the entire evidence on record, convicted the petitioner

under Sections 279/304-A/337 IPC and awarded the sentence as has been reproduced above.

The petitioner filed appeal in the Court of Additional Sessions Judge, Barnala who, after re-appreciating the entire evidence and also considering the documents and the legal aspect, dismissed the appeal of the petitioner. Aggrieved against the same, the present criminal revision has been filed.

During the course of arguments, learned counsel for the petitioner has submitted that he does not wish to challenge the conviction of the petitioner but 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 has been submitted that the incident is of the year 2003 and the petitioner has suffered the agony of trial/appeal/revision for all these years and the petitioner was granted bail/suspension of sentence but he has never misused the said concession. It is further submitted that the petitioner is 42 years of age and has two children and is the sole bread winner of his family. It is further submitted that as per the custody certificate (which is taken on record), the petitioner has already undergone 06 months and 10 days of actual custody after conviction and further has earned remission of 03 months, and, thus, his total custody including remission is 09 months and 10 days. It is further submitted that although the petitioner was involved in another case but he has been acquitted in the same. It has also been stated that in compliance of order dated 02.11.2010 vide which the sentence of the petitioner was suspended, the petitioner had also deposited a sum of Rs.50,000/- as interim compensation and the same has been released.

In support of his arguments, learned counsel for the petitioner has relied upon **CRR-1931 of 2010** decided on 23.07.2019 titled as **Chander Bhan Vs. 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 Vs. 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 Vs. 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 Vs. 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 counsel for the State of Punjab has submitted that the judgments of both the Courts below are well reasoned and have been passed after taking into consideration the entire evidence and the material on record. However, the fact with respect to the custody of the petitioner as well as having never misused the concession of bail/suspension of sentence has not been disputed by the learned State counsel.

This Court has heard the learned counsel for the parties and have perused the record.

As far as the conviction of the present petitioner under Sections 279, 304-A, 337 IPC is concerned, this Court is of the view that both the Courts have considered the entire evidence and record in detail and have rightly come to the conclusion that it was the petitioner who was involved in the incident. The medical evidence which has been produced on the record by PW-2 and PW-9 fully proves that Jagsir Singh died on account of the injuries suffered by him at the time of accident. Moreover, PW-4 who is the injured complainant in the case has fully supported the case of the prosecution and has also identified the present petitioner. The Investigating Officer PW-3 Karnail Singh has also proved all the relevant documents including recovery memo, site plan, inquest report and driving licence of the accused. Nothing has come out from the cross-examination so as to demolish the case of the prosecution and thus, the conviction is upheld.

As far as sentence which has been awarded to the petitioner is concerned, this Court is of the view that keeping in view the fact that the incident in the present case is of the year 2003 and the petitioner has never misused the concession of bail/suspension of sentence and that even in another case in which he was alleged to be involved, the petitioner has been acquitted and also the fact that the petitioner is about 42 years of age and has two children and is the sole bread winner of his family and has undergone an actual sentence of 06 months and 10 days and has also earned remission of 03 months, thus, making his total custody including remission to be 09 months and 10 days and also in view of the judgments relied upon by the learned

counsel for the petitioner, it is ordered that the sentence awarded to the petitioner be reduced to the period already undergone by him. As has been noticed above, an amount of Rs.50,000/- was deposited as interim compensation by the petitioner in the Court of Chief Judicial Magistrate, Barnala. The legal representatives of the deceased would have the right to receive the said money in case the same has not been received till date.

Learned Chief Judicial Magistrate, Barnala is directed to issue notice to the legal representatives of the deceased and injured if the said money is not released to them.

With the above observations, the present criminal revision petition stands disposed of.

Since the criminal revision petition has been disposed of pending miscellaneous application(s), if any, also stands disposed of accordingly.

(VIKAS BAHL)
JUDGE

03.09.2021
Jitesh (JTS)

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