

CRR No.2892 of 2015

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

**CRR No.2892 of 2015 (O&M)
Date of decision:06.08.2021**

Vinod Kumar

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sarfraj Hussain, Advocate
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana
for respondent No.1-State.

None for respondents No.2 and 3.

SUVIR SEHGAL J.

Challenge in the instant revision petition is to the judgment dated 03.07.2015 passed by the learned Sessions Judge, Panipat, vide which appeal preferred by the petitioner against judgment and order of sentence passed by learned Chief Judicial Magistrate, Panipat, has been dismissed.

Succinctly, the facts leading to filing of the revision are that the petitioner faced trial for offence under Sections 279, 304-A of IPC in FIR No.258 dated 30.10.2017 registered at Police Station Sadar, Panipat which had been registered on the basis of statement of Ram Kumar, on the allegation that he and Surender were going on their motorcycle behind Laxman Singh, who was also on a motorcycle, from village Gogripur to Panipat. When they reached Babarpur Mandi, a young boy, who was rashly and negligently driving a Bajaj Platina without a number, hit the motorcycle

of Laxman, who fell on the road, became un-conscious due to injuries sustained on his head and died. It was later found that the offending motorcycle was being driven by Vinod Kumar, petitioner herein. After trial, the petitioner was convicted under Sections 279/304-A of IPC and sentenced to undergo rigorous imprisonment for a period of six months and one year, respectively for both the offences, which was ordered to run concurrently. Appeal filed by the petitioner was dismissed, vide judgment dated 03.07.2018, which is under challenge in the instant revision petition.

Counsel for the parties have been heard.

Both the Courts below have found the petitioner guilty of offences under Sections 279 and 304-A of IPC on the basis of the statements of eyes witnesses, namely, Surender (PW1) and complainant Ram Kumar (PW2). The presence of the accused-petitioner at the spot was also established as PW2 in his statement, had admitted the fact that when they took the injured to the Civil Hospital, the petitioner accompanied them. The findings recorded by both the Courts, are based upon evidence which has remained un-rebutted and there is no scope for interference in the same, therefore, conviction of the petitioner for the offences is upheld.

When the instant revision petition came up for motion hearing before this Court on 03.09.2015, counsel for the petitioner argued that the case be considered for reduction of sentence subject to the petitioner paying some additional amount beyond the awarded compensation in the name of legal heirs of the deceased. By order dated 11.01.2016, the sentence of the petitioner was suspended, subject to his furnishing bail bonds/surety

bonds and he was directed to implead the legal heirs as party to the petition. On 06.06.2016, an amended memorandum of parties was filed and notice was issued to the newly impleaded respondents No.2 and 3. However, despite service, both the newly impleaded respondents, remained unrepresented. The petitioner has filed an application (CRM No.18000 of 2017) for placing on record a copy of the compromise effected between the parties. At the time of reserving the judgment on 29.07.2021, counsel for the petitioner has restricted the petition only qua the quantum of sentence.

In **State of Punjab Vs. Saurab Bakshi, 2015(2), RCR (Criminal) 495**, the Hon'ble Supreme Court after noticing the fact that the accused has undergone the agony of trial for almost 09 years, reduced the sentence to the period already undergone by him. Very recently in **Murali Vs. State represented Inspector General of Police, 2021(1)SCC (Criminal) 487**, the Hon'ble Supreme Court has held that settlement arrived at between the parties is a relevant consideration and even if the offence is non-compoundable offence, compromise can be taken into consideration for the purpose of reduction of sentence.

The accident took place in the year 2007 i.e. almost 14 years back. The petitioner has been found to be guilty of causing death due to rash and negligent driving. A perusal of the compromise (Annexure P-1), shows that it has been signed by Bhoti Devi, widow of the deceased and eye-witness, Ram Singh, respondent No.2, though his relationship with the petitioner has not been specified. The compromise, is countersigned by a

Sarpanch and a Ex-Sarpanch of the village. In the compromise, widow of the deceased has stated that it has been decided in the presence of respectables of the village, she does not want to take any action and that the witness of the case, Ram Kumar, also agrees to the same. From the custody certificate dated 31.08.2017, which is available on record, it is apparent that the petitioner has undergone a sentence of 06 months and 13 days i.e. more than half the sentence imposed upon him. Keeping in view the above circumstances, this Court is of the considered opinion that it is a fit case to take a sympathetic view and reduce the quantum of sentence awarded by the Courts below to the period already undergone by the petitioner.

Consequently, while upholding the conviction of the petitioner under Sections 279 and 304-A IPC and leaving the issue of grant of additional compensation to the LRs open, the substantive sentence imposed upon the petitioner is ordered to be reduced to the period already undergone by him.

With the above modification in the sentence, the revision petition is disposed of. All the pending applications are also disposed of.

(SUVIR SEHGAL)
JUDGE

August 06, 2021
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes