

108

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

CRR-1323-2021 (O&M)
Date of decision : 29.10.2021

Simranjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arihant Jain, Advocate and
Mr. Varun Jain, Advocate for the petitioner.

Mr. A.K. Kaundal, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Challenge in the present Criminal Revision Petition is to the order dated 26.08.2019 passed by the Judicial Magistrate Ist Class, Malerkotla, vide which the petitioner has been found guilty for the offence committed under Sections 279, 304-A and 427 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) and has been sentenced as under:-

<i>Name of convict</i>	<i>Sentenced under Section</i>	<i>Period of Sentence</i>
Simranjit Singh	304-A IPC	Rigorous imprisonment for the period of two years
	279 IPC	Rigorous imprisonment for the period of three months
	427 IPC	Rigorous imprisonment for the period of six months

All the sentences shall run concurrently. The period of detention undergone by the convict in this case be set off against the substantive sentence awarded to the convict.”

Challenge has also been made to the judgment dated 28.09.2021 passed by the Additional Sessions Judge, Sangrur, vide which the appeal filed by the petitioner was also dismissed.

Briefly stated that the facts of the present case are that on 25.04.2015, a telephonic call was received at Police Station City-I Malerkotla stating that Gurchet Singh son of Surjit Singh had died in a road accident and his dead body was lying in the Civil Hospital, Malerkotla. The police party went to the Civil hospital, Malerkotla where the complainant-Manjit Singh met them and got his statement recorded to the effect that Gurchet Singh was his nephew and they were going to Malerkotla for purchasing parts of Combine, on their respective motorcycles and his nephew was on the motorcycle bearing registration No.PB-13K-0481 and when they reached Village Jandali Khurd, a Swift Dzire Car bearing No.PB-10V(T)-2015-3983 was seen coming from Ludhiana Side in a rash and negligent manner and hit the motorcycle of his nephew-Gurchet Singh, who fell down and suffered injuries on his head and other parts of the body and his motorcycle also got damaged and the driver of the car fled away from the spot. Later on, it was found that it was the present petitioner who was driving the said car and the said Gurchet Singh was admitted in the Civil Hospital, Malerkotla, but he succumbed to his injuries and died on the way.

After the investigation, challan was presented and charges were framed against the petitioner and the prosecution had examined 9 witnesses, the details of which are as under:-

1. PW1-ASI Balwinder Singh (Investigating Officer)
2. PW2-Manjit Singh (Complainant)

3. PW3-Sukhdev Singh,
4. PW4-Dr. Gurpreet Singh,
5. PW5-HC Mahinder Singh,
6. PW6-Neelam (Clerk RTA Office)
7. PW7-HC Leela Khan,
8. PW8-Neelam (Clerk, RTA Office, Ludhiana),
9. PW9-Dr. Jaswinder Singh

PW1-ASI Balwinder Singh, who was the Investigating Officer, had proved the version of the prosecution and had also proved on record the FIR as Ex.PB, Endorsement as Ex.PC, rough site plan as Ex. PD, recovery memo of accidental motor-cycle alongwith RC and affidavit as Ex. PE, recovery memo of offending car alongwith driving licence of the accused alongwith other documents as Ex. PK and the offending car i.e. case property as Ex. MO1.

PW-2 Manjit Singh, who is the complainant in the case and is also the eye-witness, had proved the identity of a person who was driving the car.

PW-4 Dr. Gurpreet Singh had deposed that he had conducted the postmortem of the deceased-Gurchet Singh and had prepared the Postmortem report Ex.PW4/A and the cause of death recorded in his report was due to injury to the brain and the said injury is sufficient to cause death in ordinary course of nature. The said injury was caused on account of the accident.

PW5-Head Constable Mahinder Singh was witness to the recovery.

PW-6-Neelam, who is Clerk in RTA Office, Ludhiana, had deposed that the vehicle in question (offending car) belongs to the petitioner.

PW-7-Head Constable Leela Khan had deposed regarding mechanical examination of the offending car and proved on record his reports as Ex. PW-7/A and Ex. PW-7/B.

PW-8-Neelam, who is also Clerk in RTA Office, Ludhiana, had deposed regarding driving licence Ex. PW-8/A, which was in the name of the petitioner.

The other witnesses had also supported the case of the prosecution and the Judicial Magistrate Ist Class, Malerkotla, after considering the entire evidence and documents on record, had found the petitioner guilty for offences committed under Sections 279, 304-A and 427 of the IPC and had sentenced him to undergo rigorous imprisonment as has been reproduced hereinabove.

The Additional Sessions Judge, Sangrur, after reconsidering the entire evidence and documents produced, dismissed the appeal filed by the petitioner and upheld the sentence.

Aggrieved against the abovesaid orders, the present Criminal Revision Petition has been filed.

During the course of arguments, learned counsel for the petitioner has submitted that he is not challenging the conviction of the petitioner but is praying for leniency as far as the sentence which had been awarded to the petitioner is concerned and with respect to the same, it has been submitted that the incident in question is of the year 2015 and the

petitioner has suffered the agony of trial/appeal/revision for all these years and the petitioner was granted the bail/suspension of sentence and he has never misused the said concession. It is further submitted that the petitioner is 28 years of age and is the sole bread winner of his family and has three unmarried sisters and old parents to take care of and he is not involved in any other case. It is further submitted that the petitioner has been in custody since 28.09.2021.

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 Vs. State of Haryana** in which, in a case where the petitioner therein had actually undergone sentence of 04 months and 07 days in a case under Sections 279 and 304-A IPC, a Coordinate Bench of this Court had 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 a Coordinate Bench 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**, reported as **2020 (1) RCR (Criminal) 163**, wherein 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. Further reliance has been placed upon judgment dated 22.07.2019 passed by a Coordinate Bench of this Court in **CRR-444-2019** titled **Sunil Kumar Vs. State of Haryana**, in which case also, the petitioner therein was convicted under Sections 279, 337, 304-A of the IPC and had undergone about 3 months of judicial custody and was released on probation in the said case.

Notice of motion.

On advance notice, Mr. A.K. Kaundal, DAG, Punjab, appears and accepts notice on behalf of the State of Punjab and has submitted that he is fully prepared to argue this matter and assist this Court. He 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 material on record. However, the fact with respect to the custody of the petitioner as well as him never having misused the concession of bail/suspension of sentence, has not been disputed by him.

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

As far as conviction of the petitioner under Sections 279, 304-A and 427 of the IPC is concerned, this Court is of the view that both the Courts below 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. In the present case, PW-2-Manjit Singh is the complainant and the eye-witness of the accident and has deposed that it is the petitioner who has caused the accident. PW4-Dr. Gurpreet Singh had duly proved on record the Postmortem report as Ex.PW4/A and has also

submitted that the cause of death is due to the injury to the brain. The said injury has been caused at the time of accident. PW1-ASI Balwinder Singh- Investigating Officer had also proved the necessary documents on record including recovery memo of the offending car alongwith driving licence of the accused as Ex. PK and the offending car which is the case property as Ex.MO1. PW-6-Neelam, who is Clerk in RTA Office, Ludhiana had proved that car in question belongs to the petitioner. PW-7-Head Constable Leela Khan, had deposed regarding mechanical examination of the offending car and proved on record his reports as Ex. PW-7/A and Ex. PW-7/B, thus, it is apparent that car is owned and driven by the petitioner who has caused the accident. The other witnesses have also fully supported the case of the prosecution. Nothing has come out from the cross-examination of the witnesses so as to demolish the case of the prosecution and it is proved that the cause of death of the deceased is due to the rash and negligent driving of the petitioner, thus, the conviction of the petitioner 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 2015 and the petitioner has never misused the concession of bail/suspension of sentence granted to him and the petitioner is not involved in any other case and is of 28 years of age and is the sole bread winner of his family and has three unmarried sisters and old parents to take care of, moreover, the petitioner has been in custody since 28.09.2021 and also in view of the said facts and circumstances 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.

The same would, however, be subject to the petitioner depositing an amount of Rs.1,00,000/- before the Chief Judicial Magistrate, Sangrur, within a period of two months from the date of receipt of certified copy of the present judgment.

The Chief Judicial Magistrate, Sangrur, is directed to issue notice to the legal representatives of the deceased after the deposit of abovesaid Rs.1,00,000/- is made by the petitioner, so that the same can be released to the legal representatives of the deceased-Gurchet Singh son of Surjit Singh.

It is made clear that in case, the amount is not deposited within a period of two months from the date of receipt of certified copy of the present judgment, the present Criminal Revision Petition would be deemed to have been dismissed.

Accordingly, the present Criminal Revision petition is disposed of in the abovesaid terms.

Since, the main case has been decided, application bearing CRM-36502-2021 for suspension of sentence of applicant-petitioner is rendered infructuous and is disposed of as such.

29.10.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No