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

CRR-1436-2021 (O&M)

Date of decision : 16.11.2021

Jagdev Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Briz Mohan, Advocate and  
Mr. Inderjeet Singh Brar, Advocate for the petitioner.

Mr. N.K. Banka, DAG, Punjab.

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**VIKAS BAHL, J. (ORAL)**

Challenge in the present Criminal Revision Petition is to the judgment dated 16.01.2019 passed by the Chief Judicial Magistrate, Faridkot, vide which the petitioner had been convicted under Sections 279 and 304-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) and also to the order on quantum of sentence dated 16.01.2019 vide which the petitioner had been awarded the sentence which reads as follows:-

| <i>Sr. No.</i> | <i>Offence</i> | <i>Sentence</i> | <i>Fine</i> | <i>Imprisonment in default of fine</i> |
|----------------|----------------|-----------------|-------------|----------------------------------------|
| 1              | 279 IPC        | RI 6 months     | Rs.1000/-   | RI 15 days                             |
| 2              | 304-A IPC      | RI 2 years      | Rs.4000/-   | RI 1 month                             |

*54. Both the sentences shall run concurrently. The period of detention, if any, undergone by the convict during the inquiry, investigation or trial of the present case shall be set off against the substantive imprisonment imposed upon him*

*as above. The case property, if any, be disposed of under rules after awaiting the result of appeal/revision, if any.”*

Challenge has also been made to the judgment 05.10.2021 passed by the Additional Sessions Judge-I, Faridkot vide which the appeal preferred by the petitioner against the abovesaid judgment dated 16.01.2019 and order on quantum of sentence dated 16.01.2019, had been dismissed.

Brief case of the prosecution is that on 08.04.2016, a ruqa was received from GGS Medical College & Hospital, Faridkot with respect to the death of one person and when the police officials reached the hospital, Avtar Singh son of Ajit Singh got recorded his statement to the effect that his younger brother namely Balkar Singh used to drive a tempo bearing registration No.PB-N-9629 at the Faridkot-Nangal route and on 08.04.2016, was taking the passengers from Faridkot to Chameli and the said Avtar Singh was standing on one side of the tempo. At about 12.30 PM, one jeep Bolero bearing registration No.PB-11AN-7792 came from the opposite side and dashed against their vehicle and the said Jeep Bolero was being driven by the petitioner at a very high speed and was coming from the wrong side of the road and rammed in the tempo and thereafter, the said jeep rammed into another vehicle which was an Alto car. It was further the case of the prosecution that the said Balkar Singh had suffered multiple injuries in the said accident and was taken to Medical Hospital, Faridkot where he had succumbed to his injuries and one Baaj Singh (passenger in the tempo) had also suffered injuries in the said accident. It was alleged that the accident had taken place on account of rash and negligent driving of the petitioner, who was driving the jeep at a very high speed.

After investigation, challan was presented and the charges were framed against the petitioner under Sections 279, 304-A and 337 of the IPC.

The prosecution has examined nine witnesses, in support of its case, which are as follows:-

1. PW1-Avtar Singh-complainant
2. PW2-Dr. Ishwar Tayal
3. PW3-Hari Vansh, Data Entry Operator, DTO, Faridkot
4. PW4-ASI Jagdev Singh-Investigating Officer
5. PW5-HC Subash Kumar, Mechanic
6. PW6-Dr. Arwinderpal Kaur Gill, EMO, GGS Hospital, Faridkot
7. PW7-HC Gurcharan Singh
8. PW8-C. Jagmeet Singh
9. PW9-HC Aman Kumar

The statement of the petitioner under Section 313 of Cr.P.C. was recorded wherein he had denied all the allegations levelled against him.

PW1-Avtar Singh, who is the complainant as well as the eye-witness in the case, in his evidence, had clearly proved that it was the present petitioner who was driving the offending jeep on account of which the accident had taken place.

PW2-Dr. Ishwar Tayal, had stated that he was posted as Associate Professor in the Department of Forensic Medicine at GGS Medical College, Faridkot and he had conducted the postmortem examination of the deceased Balkar Singh, who was identified by his brothers namely Avtar Singh and Nishan Singh, had suffered eight injuries

and the cause of death in the said case was haemorrhage shock as a result of multiple injuries. The postmortem report was proved as Ex.PW2/B.

PW4-ASI Jagdev Singh was the Investigating Officer of the case and among other documents, he had proved on record seizure memo as Ex.PW1/D, whereby he took the Bolero Jeep (MO2) alongwith its registration Certificate and the petitioner's driving licence as Ex.P3 and also Ex.P1 and Ex.P2, which proved that the petitioner was owner of the vehicle.

PW5-HC Subash Kumar, has proved the mechanical test report of the vehicles involved in the accident.

The other witnesses had also fully supported the case of the prosecution and on the basis of the said evidence and documents, the trial Court convicted the petitioner under Sections 279 and 304-A of the IPC and sentenced him as has been detailed hereinabove.

Aggrieved against the said judgment, the petitioner had filed an appeal in the Court of Additional Sessions Judge-I, Faridkot who, after considering the entire material on record including the evidence and the documents produced and after re-appreciating the same, dismissed the appeal of the petitioner. It is against the said order that the petitioner has filed the present criminal revision petition.

During the course of arguments, learned counsel for the petitioner has submitted that although, he does not wish to challenge the conviction of the petitioner under Sections 279 and 304-A of the IPC but he would be satisfied in case a lenient view is taken with respect to the sentence which has been awarded to the petitioner. In this regard, he has submitted that the FIR in the present case is of the year 2016 and thus, the

petitioner has suffered agony of trial/bail/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 53 years of age and has two children and he is the sole bread winner in the family and the petitioner has already undergone 1 month and 10 days of actual custody out of the entire sentence awarded to him and has earned no remission. It is also submitted that the petitioner is not involved in any other case.

In support of his arguments, learned counsel for the petitioner has relied upon **CRR-1931-2010 decided on 23.07.2019 titled 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 of the IPC, 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 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 Sections 279/304-A of the 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 counsel for the State has stated that the judgments of both the Courts have been passed after considering the entire evidence and material on record. The other factual aspects have not been rebutted by the learned counsel for the State. He has also produced on record the custody certificate of the petitioner, which is taken on record, as per which, the period of custody as stated by the learned counsel for the petitioner, is correct.

This Court has heard the learned counsel for the parties.

Insofar as the conviction of the present petitioner under Sections 279 and 304-A of the 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 is the petitioner who was involved in the accident. PW1-Avtar Singh, who is the complainant as well as the eye-witness in the case had fully proved the fact that it was the present petitioner who was driving the offending jeep on account of which the accident had taken place and the complainant's brother had died on account of the injuries suffered by him at the time of accident. PW2-Dr. Ishwar Tayal, had proved on record the postmortem report as Ex.PW2/B, as per which, the complainant's brother had died on account of injuries sustained in the accident. PW4-ASI Jagdev Singh who was the Investigating Officer had fully proved on record that it was the petitioner who was the owner of the Bolero jeep which was involved in the accident and had duly proved on record Ex.P1 and Ex.P2 as well as seizure memo of the said Bolero jeep as Ex.PW1/D and the other relevant documents. PW5-

HC Subash Kumar, had proved the mechanical test report of the vehicle involved in the accident and all the relevant witnesses had fully supported the case of the prosecution. Although, the said witnesses have been cross-examined, however, nothing came out in their cross-examination, so as to cause a dent in the case of the prosecution and thus, the conviction of the petitioner under Sections 279 and 304-A of the 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 2016 and the petitioner has never misused the concession of bail/suspension of sentence granted to him. The petitioner is 53 years of age and has two children and he is the sole bread winner of the family. As per the custody certificate, he has already undergone 1 month and 10 days of actual custody and has earned no remission.

Thus, in view of the abovesaid facts and circumstances, as also the judgments relied upon by the learned counsel for the petitioner, sentence awarded to the petitioner is ordered to be reduced to six months subject to the fact that an amount of Rs.50,000/- will be deposited by the petitioner before the concerned Chief Judicial Magistrate in addition to the fine of Rs.4000/-, within a period of two months from today.

It is also made clear that in case, the said amount of Rs.54,000/- is not deposited within two months from today, then the present criminal revision petition would be deemed to have been dismissed.

The concerned Chief Judicial Magistrate, after the deposit of an amount of Rs.54,000/- by the petitioner as aforesaid, would issue notice to the legal representative of the deceased and thereafter, release the said

amount to the said legal representative of the deceased.

With the abovesaid observations, the present criminal revision petition is disposed of.

Since, the main case has been decided, application bearing CRM-38636-2021 for suspension of sentence of applicant-petitioner is rendered infructuous and is disposed of as such.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

**16.11.2021**

*Pawan*

**(VIKAS BAHL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**