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

CRR-1664-2021 (O&M)

Date of decision : 14.12.2021

Aarif

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Namit Khurana, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Challenge in the present Criminal Revision is to the judgment dated 05.04.2017, vide which the Sub Divisional Judicial Magistrate, Bilaspur, had convicted the petitioner under Sections 279 and 304-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) and had sentenced the petitioner to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/- for the commission of offence punishable under Section 304-A of the IPC and to undergo rigorous imprisonment for a period of two months for the commission of offence punishable under Section 279 of the IPC and both the sentences were ordered to run concurrently.

Challenge has also been made to the order 11.11.2021, vide

which the Sessions Judge, Yamuna Nagar had dismissed the appeal preferred by the petitioner against the abovesaid judgment and upheld the conviction and sentence.

Brief facts of the prosecution case are that the FIR in the present case was registered on the statement of Parveen Kumar which was to the effect that on 13.06.2012 at about 11.00/11.30 a.m., his youngest son namely Shubham (deceased) after taking a lift from the petitioner, was made to sit on the tractor bearing registration No. HR-02U-7871, on the seat beside the driver's seat and the tractor was being driven by the petitioner whereas the said Parveen Kumar was paddling the bicycle behind the tractor and it was submitted that the driver of the tractor at once gave race and drove the tractor at a very high speed and in spite of the complainant telling him to drive slowly, the petitioner did not pay any heed and accelerated the speed and started driving the tractor in a rash and negligent manner, on account of which Shubham (son of the complainant) fell from the seat in front of the rear tyre and the tyre ran over his abdomen and the said Shubham died on account of the injuries suffered in the accident.

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

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

1. PW1-Manjeet Singh
2. PW2-Parveen Kumar
3. PW3-Gurnam
4. PW4-SI Subhash Chand (wrongly recorded as PW3),

5. PW5-Dr. Rameeta (wrongly recorded as PW4),
6. PW6-ASI Satish Kumar (wrongly recorded as PW5)
7. PW7-Pardeep Kumar (wrongly recorded as PW6)
8. PW8-Anil Kumar
9. PW9-ASI Subhash Chand

PW2-Parveen Kumar and PW7-Pardeep Kumar, were the eye-witnesses of the occurrence who had fully proved the fact that it was the present petitioner who was driving the tractor in question and on account of his rash and negligent driving, the son of the complainant had fallen from the tractor and the tractor then had ran over the son of the complainant and on account of the injuries suffered by the son of the complainant, he had died.

PW5-Dr. Rameeta, had proved the Postmortem Examination Report as Ex.PW4/B on record, as per which, injury No.1 would show that the same had been caused on account of tractor running over the deceased son.

PW4-SI Subhash Chand was the Investigating Officer of the present case who had stated that the petitioner was produced before him alongwith the tractor bearing registration No.HR-02U-7871.

PW9-ASI Subhash Chand had proved the mechanical examination report as Ex.PW9/A of the said tractor-trolley in question.

The trial Court, after considering the above evidence as well as the documents on record, 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 before the Sessions Judge, Yamuna Nagar, who, after considering and re-appreciating the entire evidence and documents on record, dismissed the appeal of the petitioner. It is against the said order that the petitioner has filed the present criminal revision.

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 had been awarded to the petitioner. In this regard, he has submitted that the FIR in the present case is of the year 2012 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 28 years of age and he is the sole bread winner in the family and the petitioner has already undergone 1 month and 4 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. PW2 who was the complainant as well as PW7 who was the eye-witness of the occurrence, they both had

duly proved on record that it was the present petitioner who was driving the tractor-trolley in question in a rash and negligent manner and on account of which, the son of the complainant had fallen from the said tractor-trolley as a result of which, he had suffered injuries on his lower chest and abdomen and other injuries on account of which, the said son of the complainant had died. PW5-Dr. Rameeta, had proved on record the Postmortem Examination Report as Ex.PW4/B and had proved on record the injuries suffered and also the fact that the same had been caused on account of tractor-trolley running over the son of the complainant. PW9-ASI Subhash Chand had proved on record the mechanical examination report as Ex.PW9/A of the said tractor-trolley in question. PW4-SI Subhash Chand was the Investigating Officer of the present case and he alongwith other officers 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 incident in the present case is of the year 2012 and the petitioner has never misused the concession of bail/suspension of sentence granted to him. The petitioner is 28 years of age and he is the sole bread winner of the family. As per the custody certificate, he has already undergone 1 month and 4 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.25,000/- will be deposited by the petitioner before the concerned Chief Judicial Magistrate, within a period of two months from today.

It is also made clear that in case, the said amount of Rs.25,000/- is not deposited within two months from today, then the present criminal revision would be deemed to have been dismissed.

The concerned Chief Judicial Magistrate, after the deposit of an amount of Rs.25,000/- 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 is disposed of.

Since, the main case has been decided, application bearing CRM-42657-2021 for suspension of sentence of applicant-petitioner is rendered infructuous and is disposed of as such.

14.12.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No