

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

CRM-37496-2019 in/and
CRR No. 2940 of 2019 (O&M)
Date of Decision:-12.1.2021

Parveen Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Nishi, Advocate for the petitioner.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

CRM-37496-2019

This application has been filed on behalf of the petitioner seeking suspension of sentence. However, the main case which is presently posted for 28.04.2021 is preponed and is taken on Board today as the petition may be rendered infructuous by the said date since the petitioner is stated to have already undergone imprisonment of about 1 year and 7 months out of sentence of 2 years as imposed upon him.

Main case

1. The instant petition has been filed by petitioner Parveen Kumar challenging judgment dated 9.9.2019 passed by learned Sessions Judge, Jalandhar whereby an appeal filed by the petitioner challenging his conviction for

offences under Sections 279/304-A IPC as recorded by JMIC Phillaur, has been dismissed.

2. A few facts necessary to notice for disposal of this petition are that the FIR in question i.e. FIR No.50 dated 23.4.2014, Police Station Goraya, District Jalandhar was lodged at the instance of Raju Kiamat wherein he alleged that on 23.4.2014, he was going to Mandi Phillaur in connection with some domestic work and at that time one Raju Kiamat was going on his tractor ahead of him. It is alleged that when they reached near Baba Rishi Kutiya Mandir on GT Road, a truck i.e. Canter bearing Registration No. DL-I-GC-0406 came from Phagwara side without blowing any horn, at a high speed and hit against the tractor-trolley in a rash and negligent manner and as a result of which the tractor-trolley driven by Raju Kiamat turned turtle and Raju Kiamat fell down from his tractor and sustained multiple grievous injuries. It is further the case of prosecution that the Canter driver fled away from the spot after leaving his Canter at the spot. It is further the case of prosecution that although Raju Kiamat was taken to Civil Hospital, Phillaur from where he was referred to DMC Ludhiana but he succumbed to his injuries.
3. After investigation, a challan was presented against the petitioner Parveen Kumar and who was tried by the Court of learned JMIC Phillaur for offences under Sections 279, 304-A and 427 IPC. The learned JMIC, Phillaur vide his judgment dated 22.9.2017 held the petitioner guilty of having committed offences under Sections 279 and 304-A IPC while acquitting him of the charges framed under Section 427 IPC. The petitioner was sentenced as under :-

Under Section	Sentence	In default of fine
304-A IPC	Rigorous imprisonment for two years and to pay fine of ₹ 4000/-.	To further undergo Rigorous imprisonment for one month.
279 IPC	Rigorous imprisonment for six months and to pay fine of ₹ 500/-.	To further undergo Rigorous imprisonment for 10 days.

4. Aggrieved by his conviction, the petitioner preferred an appeal in the Court of Sessions which came to be dismissed vide judgment dated 9.9.2019.
5. The learned counsel for the petitioner has challenged the impugned judgment mainly on the ground that the accused was not properly identified and as such, cannot be connected with the occurrence in question.
6. I have heard the learned counsel for the petitioner.
7. A perusal of the impugned judgments would reveal that the trial Court as well as the lower appellate Court have both noticed the facts in detail wherein it is specifically mentioned that the FIR in question was lodged by Sukhwinder Singh who had witnessed the accident as the deceased was going on his tractor ahead of the complainant who was also going in the same direction in connection with his household work. It is the specific case of the prosecution and has been specifically stated by PW-1 Sukhwinder Singh that the petitioner Parveen Kumar after causing the accident left his Canter at the spot and fled away. PW-1 Sukhwinder Singh specifically deposed that he had seen the driver and has also identified him in the Court.
8. Still further, the petitioner who is driver of the Canter in question was produced by none else but the owner of the Canter i.e. by Satish Kumar on 25.4.2014. Since the involvement of the truck in question in the accident is not in dispute and the owner of the truck in question has himself produced

his driver i.e. the petitioner, there can hardly be any doubt regarding the identification of the driver i.e. the petitioner. In case, the petitioner was really sanguine about his contention regarding the identification, he could have taken some steps for examining the owner of the truck in question in his defence but he did not take any such step. In these circumstances, this Court is unable to accept the aforesaid contention regarding identification of the petitioner.

9. The trial Court as well as the lower appellate court have both marshalled the evidence meticulously leading to the findings of guilt of the petitioner. The learned counsel for the petitioner could not show any infirmity in the findings as recorded by the trial Court pertaining to guilt of the petitioner. In these circumstances, there is no ground for any interference in the findings of conviction of the petitioner for offences under Sections 279 and 304-A IPC as recorded by learned JMIC and as affirmed by the Court of Sessions in appeal.
10. Further, even the sentence as imposed in the instant case by the Magistrate i.e. sentence of 2 years for offence under Section 304-A IPC and for 6 months for offence under Section 279 IPC is commensurate with the nature of offence and cannot be said to be on the higher side and does not warrant any interference.
11. There is no merit in this revision petition and the same is hereby dismissed.

12.1.2021

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No