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

CRR-1703-2021 (O&M)
Date of decision : 16.12.2021

Jarnail Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. K.B.S. Mann, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Challenge in the present Criminal Revision is to the judgment dated 31.05.2019 passed by the Judicial Magistrate Ist Class, Barnala, vide which the petitioner had been convicted and sentenced as under:-

“After hearing the Convict as well as learned APP for the State, this Court has come to the conclusion that following punishment will meet the ends of justice:

<i>Sr. No.</i>	<i>Offence</i>	<i>Punishment</i>	<i>Fine</i>	<i>In default</i>
1	279 IPC	Two years	Rs.1000/-	One month
2	304A IPC	Six months	Rs.500/-	15 days

Both the sentences shall run concurrently. Sentence, if any, has been spent by the accused in this case shall be set of. Case property, if any, be dealt as per rules after expiry of period of appeal/revision. File be consigned to the record room, Barnala.”

Challenge has also been made to the judgment dated 14.10.2021, vide which the Sessions Judge, Barnala 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 in the present case, on the basis of statement of Raghbir Singh, FIR was registered, in which he had alleged that the petitioner who was driving a car bearing registration No.PB-08-AX-1248 in a rash and negligent manner had caused an accident with scooty of daughter of the complainant namely Hitpreet Kaur on account of which, the injuries were caused to the said Hitpreet Kaur and she succumbed to the injuries.

The trial Court vide judgment dated 31.05.2019 had convicted the petitioner and sentenced him to undergo imprisonment as has been detailed hereinabove.

A criminal appeal was filed against the same and vide judgment dated 27.11.2019, the Court of Sessions Judge, Barnala had upheld the conviction of the petitioner but the sentence part was set aside because Judicial Magistrate Ist Class had not recorded the directions regarding imprisonment i.e. whether simple imprisonment or rigorous imprisonment, and the file was remanded back to the Judicial Magistrate Ist Class for hearing the parties on quantum of sentence only.

No further challenge was made to the said judgment dated 27.11.2019 and thus, finding to the effect that the petitioner is guilty of the offence stood affirmed. After the said order was passed by the Sessions Court on 27.11.2019, decision regarding quantum of sentence was given on

17.12.2019 and the same is reproduced hereinbelow:-

“After hearing the Convict as well as learned APP for the State, this Court has come to the conclusion that following punishment will meet the ends of justice:

<i>Sr. No.</i>	<i>Offence</i>	<i>Rigorous Imprisonment for a period of</i>	<i>Fine</i>	<i>In default of payment of fine to undergo simple imprisonment for a period</i>
1	U/s 279 IPC	Six months	Rs.500/-	15 days
2	U/s 304A IPC	Two years	Rs.1000/-	One month

Both the sentences shall run concurrently. Sentence, if any, has been spent by the accused in this case shall be set of as per the provisions of Section 428 of Cr.P.C. File be consigned to record room.”

Against the said judgment of conviction dated 31.05.2019 and sentence dated 17.12.2019, an appeal was filed before the Sessions Judge, Barnala, who vide its judgment dated 14.10.2021 had observed that as far as conviction of the petitioner is concerned, the same had attained finality in the first round of litigation and it was not open to the petitioner to challenge the same and even with respect to the sentence, no interference was granted by the Sessions Court and para 19 of the judgment dated 27.11.2019 was reproduced in para 14 of the said judgment.

During the course of arguments, learned counsel for the petitioner has submitted that he does not wish to challenge the conviction of the petitioner but would be satisfied if a lenient view is taken with respect to the sentence, which has been awarded to the petitioner. In this regard, it has been submitted that the incident 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 bail/suspension of sentence but he has never misused the said concession. It is further submitted that the petitioner is 58 years of age and has two children and is the sole bread winner of his family. It is further submitted that the petitioner has already undergone 2 months and 4 days of actual custody after conviction. It is stated 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 of 2010 decided on 23.07.2019** titled as **Chander Bhan Vs. State of Haryana** wherein the petitioner had actually undergone sentence of 04 months and 07 days in a case registered 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** 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 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**, 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 of Punjab 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 the material on record. However, the fact with respect to the custody of the petitioner as well as having never misused the concession of bail/suspension of sentence has not been disputed by the learned State counsel.

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

The judgment of the Appellate Court to the effect that the conviction of the petitioner had been upheld in the earlier round of litigation inasmuch as against the judgment of conviction dated 31.05.2019, an appeal was filed before the Court of Sessions Judge, who vide its judgment dated 27.11.2019, had upheld the conviction and had only remanded back the matter with respect to the sentence awarded and thus, the said judgment dated 14.10.2021 on the said aspect deserves to be upheld. Moreover, learned counsel for the petitioner has also, very fairly, not challenged that finding. Even otherwise, there is enough evidence to show that it is the present petitioner who had caused the death of the deceased on account of rash and negligent driving. Thus, the conviction of the petitioner under Sections 279 and 304-A of the IPC 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 and that the petitioner is not involved in any other case and also the fact that the

petitioner is 58 years of age and has two children and is the sole bread winner of his family and has undergone an actual sentence of 2 months and 4 days of actual custody after conviction 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 is reduced from rigorous imprisonment of 2 years to rigorous imprisonment of 6 months, subject to the petitioner depositing an amount of Rs.75,000/- with the Chief Judicial Magistrate, Barnala, within a period of one month from today.

The Chief Judicial Magistrate, Barnala is directed to issue notice to the legal representative of the deceased after the said amount is deposited by the petitioner and the said amount then shall be paid to the legal representatives of the deceased.

With these observations, the present Criminal revision is disposed of.

It is made clear that in case the said amount of Rs.75,000/- is not deposited within a period of one month from today, then the present Criminal Revision would be deemed to have been dismissed.

Since, the main case has been decided, application bearing CRM-43336-2021 for suspension of sentence of applicant-petitioner is rendered infructuous and is disposed of as such.

16.12.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No