

CRR No.1726-2021 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(108)

CRR No.1726-2021 (O&M).  
Date of Decision:-20.12.2021.

Kamaljit Singh

.....Petitioner

Versus

State of U.T., Chandigarh

.....Respondent

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

\*\*\*\*

Present: Mr. K.K. Chahal, Advocate for the petitioner.

Mr. Anil Kumar Lamdharia, Addl. P.P. U.T.,  
Chandigarh.

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

Challenge in the present revision petition is to the judgment dated 15.10.2019 vide which the petitioner has been convicted for the offence under Sections 279, 304-A of IPC and Section 3/181 of the Motor Vehicles Act and has been sentenced as under:-

| <i>“Under Section</i>                     | <i>Sentence</i>                       | <i>Fine Rs.</i>   | <i>In Default of<br/>payment of fine, R.I<br/>for</i> |
|-------------------------------------------|---------------------------------------|-------------------|-------------------------------------------------------|
| <i>279 of Indian Penal<br/>Code, 1860</i> | <i>R.I. For three<br/>months</i>      | <i>Rs.500/-</i>   | <i>Fifteen days</i>                                   |
| <i>304-A Indian Penal<br/>Code, 1860</i>  | <i>R.I. for one and<br/>Half year</i> | <i>Rs.5,000/-</i> | <i>Six months</i>                                     |
| <i>181 of Motor<br/>Vehicle Act</i>       | <i>-</i>                              | <i>Rs.500/-</i>   | <i>Seven days.</i>                                    |

4. All the substantive sentences shall run concurrently. The period of detention already undergone by convict during the period of inquiry/investigation or trial, if any, is ordered to be set off against the substantive sentence awarded to him today. Fine paid. The case property,

CRR No.1726-2021 (O&M)

*if any, is ordered to be dealt with as per law, after the expiry of period of appeal or revision, if any. Copy of Judgment be given to the convict, free of costs. File be consigned to the record room after due compilation.*

*Announced in open Court: (Mamta Kakkar), PCS,  
Dated: 15.10.2019 Judicial Magistrate Ist Class,  
Chandigarh/UIDPB0359”*

Challenge is also to the judgment dated 29.11.2021, vide which the appeal against the said judgment filed by the petitioner has also been dismissed by the Additional Sessions Judge, Chandigarh.

In the present case, the Investigating officer SI Mewa Singh on 20.10.2017 had received a telephonic message that an accident had taken place at PEC Light Point and the injured had been admitted to PGI. The friend of the injured namely Gursewak Singh had got his statement recorded that on 18.10.2017, he along with his friend Rupinder Singh, i.e. the deceased were going from village Naya Gaon towards their village at Masatgarh on a motorcycle, the registration number of which was applied for and at about 10:30 p.m., they reached PEC Light Point and were waiting for green light signal, when the complainant heard a sudden noise whereby a Tata Magic mini truck had struck against the motorcycle which was driven by the complainant and on which the deceased was the pillion rider and due to which the motorcycle fell on the road and the deceased got stuck under the motorcycle and the driver of the mini truck dragged him along with the motorcycle up to 10 feet and the complainant noted down the number of the mini truck i.e. PB01-A-2973 and on inquiry, it was learnt that the same was being driven by the petitioner in a rash and negligent manner. The petitioner was brought to the hospital where the parties tried to compromise the matter thinking that the injuries caused were minor and it was only on 19.10.2017, that the condition of the deceased started deteriorating and thereafter, the deceased died on account of injuries suffered in the accident. After

CRR No.1726-2021 (O&M)

the completion of investigation, the challan was presented and the charges were framed. The prosecution had examined 12 witnesses, the details of which is given hereinbelow:-

|      |                    |
|------|--------------------|
| PW1  | Gursewak Singh     |
| PW2  | HC Jai Bhagwan     |
| PW3  | SI Mahavir Singh   |
| PW4  | SI Mewa Singh      |
| PW5  | C. Pardeep Kumar   |
| PW6  | HC Sham Sher Singh |
| PW7  | Bahadur Singh      |
| PW8  | Bhajan Singh       |
| PW9  | Purshotam Singh    |
| PW10 | Kawaljit Singh     |
| PW11 | Sudagar Singh      |
| PW12 | Dr. Sunny Mehta    |

PW1 Gursewak Singh, who was the eye witness to the incident was driving the motorcycle and had proved that it was the petitioner who had caused the accident on account of his rash and negligent driving. PW3 SI Mahavir Singh had proved on record the mechanical report of both the vehicles involved in the accident Ex.PW-3/1. PW4 SI Mewa Singh, Investigating Officer, who had duly proved on record the documents including the seizure memo of the accidental vehicles Ex.P-3 and Ex.P-4. PW9 Purshotam Singh was the witness who proved the ownership record of the offending vehicle. PW10 Kawaljit Singh was the witness who proved the bill and the sale certificate regarding sale of the motorcycle of the complainant which has been taken on record as Ex.PW-10/A. PW12 Dr. Sunny Mehta, had opined that the death of the deceased had taken place on account of the accident in question.

The trial Court after considering the said evidence and the documents on record had found that it was on account of the rash and negligent driving on behalf of the petitioner that the accident had occurred and the deceased had died and, thus, the convicted the petitioner for the offences under Section 279, 304-A of IPC and Section 181 of the Motor Vehicles Act and sentenced the petitioner as has been detailed hereinabove. The Additional Sessions Judge, Chandigarh, after reconsidering the entire matter dismissed the appeal and upheld the sentence.

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 2017 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 42 years of age and has two minor children and is the sole bread winner of his family. It is further submitted that the petitioner has already undergone 20 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*** where the petitioner therein 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 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 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, 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 U.T. 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.

As far as the conviction of the present petitioner under Sections 279, 304-A of IPC is concerned, this Court is of the view that both the Courts 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.

PW1 Gursewak Singh who was the eye witness in the present case and was in fact riding the motorcycle on which the deceased was sitting as a pillion rider and witnessed the accident was able to prove that it is the petitioner who was driving the vehicle in question in a rash and negligent manner on account of which the incident had taken place. PW12 Dr. Sunny Mehta had proved the postmortem report as per which it was stated that the deceased had died on account of the said accident. PW-3 SI Mahavir Singh had brought on

CRR No.1726-2021 (O&M)

record the mechanical report of both the vehicles involved in the accident. PW4 SI Mewa Singh had proved on record the entire investigation report and material documents including the seizure memo of the accidental vehicles as Ex.P-3 and Ex.P-4. PW9 Purshotam Singh had proved the ownership of the offending vehicle and, thus, the above-said witnesses along with other witnesses proved that the petitioner had committed the offence under Sections 279 and 304-A of IPC. The said witnesses were cross-examined however, nothing came out in the cross-examination so as to dent the case of the prosecution and, thus, the conviction of the petitioner under Sections 279, 304-A of IPC and Section 181 of the Motor Vehicles Act 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 2017 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 42 years of age and has two minor children and is the sole bread winner of his family and has undergone an actual sentence of 20 days 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 1 ½ years to rigorous imprisonment of 6 months. The same would be subject to the petitioner depositing an amount of Rs.30,000/- with the Court of the concerned Illaqa Magistrate/trial Court, Chandigarh, within a period of one month from today. The learned concerned Illaqa Magistrate/trial Court, Chandigarh is directed to issue notice to the legal representatives of the deceased after the said amount is deposited by the petitioner so that the said amount can be paid to the legal representatives of the deceased.

With these observations, the present petition is disposed of.

CRR No.1726-2021 (O&M)

It is made clear that in case the said amount of Rs.30,000/- is not deposited within a period of one month from today, the present petition shall be deemed to have been dismissed.

Since the main case has been decided, pending miscellaneous application shall stand disposed of.

**(VIKAS BAHL)**  
**JUDGE**

**December 20, 2021.**

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No