

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

CRR-2944-2019

Reserved on : 10.11.2021

Pronounced on : 12.11.2021

Kuljeet Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Vikram Bali, Advocate for the petitioner.

Ms. Monika Jalota, DAG Punjab for the respondent-State.

AVNEESH JHINGAN, J.(Oral)

1. This criminal revision petition is filed being aggrieved of conviction by the learned Judicial Magistrate First Class, Patiala under Sections 279/304-A of the Indian Penal Code, 1860 (for short 'IPC') vide judgment dated 13th September, 2016 and order of even date of quantum of sentence. Further, order dated 9th October, 2019 upholding conviction by dismissal of appeal by the learned Sessions Judge, Patiala is also under challenge.

2. The relevant facts are that on 19th October, 2011, statement of Parwinder Singh was recorded that his sister Gurpreet Kaur along with her friend Mandeep Kaur used to go on scooty to Khalsa College, Patiala. On that fateful day the complainant was coming on motorcycle with them. On

reaching near Airport a tipper bearing registration No. PB-11-AT-T-6736 [hereinafter referred to as 'offending vehicle'] driven at a high speed and in a negligent manner came from Patiala side, crossed the complainant and rammed into the scooty driven by Mandeep Kaur. The offending vehicle ran over Gurpreet Kaur, as a result of the accident both the occupants of the scooty died at the spot.

3. The prosecution proved the accident, rash and negligent driving of the offending vehicle and the factum that Kuljeet Singh (petitioner) was driving the offending vehicle at the relevant time. Prosecution examined fourteen witnesses and relied upon the exhibits.

4. Considering the testimony of the complainant as an eye-witness and evidence of the other prosecution witnesses, the trial Court convicted petitioner under Sections 279 and 304-A of IPC. The appeal against the conviction and quantum of sentence was dismissed on 9th October, 2019.

5. At the very outset, learned counsel for the petitioner confines his prayer to quantum of sentence. He submits that petitioner has faced the agony of trial since 2011 as the FIR was registered on 9th August, 2011. Petitioner has undergone sentence of more than eleven months.

6. Learned State counsel opposes the prayer made by learned counsel for the petitioner. She submits that two human lives lost due to rash and negligent driving of the petitioner. Her submission is that after appreciating the evidence and analyzing the facts, the petitioner was convicted and no interference is called for. She fairly submits that as per the custody certificate, the petitioner has undergone actual sentence of eleven months and twenty-four days and with remission total undergone

Sentence is one year, two months and eight days.

7. Heard learned counsel for the parties at some length and perused the record.

8. There is no ground made out in the revision for interference in the impugned judgment of conviction and the appellate order, hence the conviction of the petitioner is upheld.

9. The contention of the learned counsel for the petitioner vis-a-vis quantum of sentence deserves consideration. The petitioner has undergone total sentence of one year, two months and eight days. The FIR was registered in October, 2011. The petitioner has faced agony almost for more than ten years.

10. The Supreme Court in ***State of Punjab v. Saurabh Bakshi, 2015(2) RCR (Criminal) 495***, while setting aside the order of the High Court, reduced the sentence of one year to twenty four days i.e. period already undergone, awarded sentence of six months to the accused. The relevant para is quoted below:-

“17. In the instant case the factum of rash and negligent driving has been established. This court has been constantly noticing the increase in number of road accidents and has also noticed how the vehicle drivers have been totally rash and negligent. It seems to us driving in a drunken state, in a rash and negligent manner or driving with youthful adventurous enthusiasm as if there are no traffic rules or no discipline of law has come to the centre stage.

The protagonists, as we perceive, have lost all respect for law. A man with the means has, in possibility, graduated himself to harbour the idea that he can escape from the substantive sentence by payment of compensation. Neither the law nor the court that implements the law should ever get oblivious of the fact that in such accidents precious lives are lost or the victims who survive are crippled for life which, in a way, worse than death. Such developing of notions is a dangerous phenomenon in an orderly society. Young age cannot be a plea to be accepted in all circumstances. Life to the poor or the impecunious is as worth living for as it is to the rich and the luxuriously temperamental. Needless to say, the principle of sentencing recognizes the corrective measures but there are occasions when the deterrence is an imperative necessity depending upon the facts of the case. In our opinion,

it is a fit case where we are constrained to say that the High Court has been swayed away by the passion of mercy in applying the principle that payment of compensation is a factor for reduction of sentence to 24 days. It is absolutely in the realm of misplaced sympathy. It is, in a way mockery of justice. Because justice is "the crowning glory", "the sovereign mistress" and "queen of virtue" as Cicero had said. Such a crime blights not only the lives of the victims but of many others around them. It ultimately shatters the faith of the public in judicial system. In our view, the sentence of one year as imposed by the trial Magistrate which has been affirmed by the appellate court should be reduced to six months."

11. Considering the law laid down by the Supreme Court and the facts that petitioner is first time offender, he is only bread earner of the family and has faced agony of trial for a considerable long period, to meet the ends of justice, the criminal revision petition is partly allowed.

12. The conviction of the petitioner is upheld, his sentence is reduced to the period already undergone by him subject to payment of fine as imposed by the trial Court. The petitioner is directed to be released, if not required in any other case, subject to payment of fine.

**(AVNEESH JHINGAN)
JUDGE**

12th November, 2021

Parveen Sharma

Whether reasoned/speaking	Yes
Whether reportable	Yes