

**CRR-3040-2019**

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

**CRR-3040-2019 (O & M)  
Date of decision: 09.11.2021**

Kamal Mehra

...Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present:- Mr. Naresh Kumar, Advocate,  
for the petitioner.

Mr. H.S.Multani, AAG, Punjab.

**HARNARESH SINGH GILL, J.**

Case is taken up for hearing through video conferencing.

The petitioner was tried in case bearing FIR No.12 dated 19.01.2013, registered at Police Station Model Town, Hoshiarpur, under Sections 279 and 304-A IPC. The Chief Judicial Magistrate, Hoshiarpur, vide judgment and order dated 23.10.2017, found the petitioner guilty for the offence punishable under Sections 279 and 304-A IPC, and sentenced him as under:

| <b>Section</b> | <b>Sentence</b>                                                                                                                                                                                          |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 279 IPC        | <i>To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month.</i> |
| 304-A IPC      | <i>To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.9,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month.</i> |

Aggrieved there-against, the petitioner preferred an appeal before the learned Sessions Judge, Hoshiarpur, which was dismissed vide impugned judgment dated 17.09.2019.

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Still aggrieved, the petitioner has preferred the present revision petition.

On 19.12.2019, when a Coordinate Bench was not inclined to agree with the contentions of the learned counsel for the petitioner on merits, he had restricted his prayer with regard to the quantum of sentence imposed upon the petitioner.

While making submissions qua the quantum of sentence, learned counsel for the petitioner would submit that the petitioner is a first offender; that he has no shady past; that he has been facing the agony of the trial since 2013; that he is the only bread winning member of his family, and that his conduct during the trial has been quite fair and *bona fide* and he has never obstructed the course of trial and the appeal. The petitioner has already undergone the actual sentence of 10 months and 19 days as on 27.10.2021. He has also earned remission of 02 months and 05 days. Under these circumstances, the sentence imposed upon the petitioner may be reduced to the one already undergone by him.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner, would submit that the sentence awarded to the petitioner is in proportion to the offence committed by him. The petitioner does not deserve any leniency.

I have heard the learned counsel for the parties.

Having heard the learned counsel for the parties and after a lucid examination of the record, this Court finds that both the courts below have rightly convicted and sentenced the

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petitioner under Sections 279 and 304-A IPC. There is no manifest error in the concurrent findings recorded by the courts below.

Thus, in my opinion, in view of the evidence on record, there is no scope for any interference in the findings of the Courts below, so far as the conviction under Sections 279 and 304-A IPC is concerned. Hence, the conviction of the petitioner under Sections 279 and 304-A IPC is upheld.

However, the fact remains that the present FIR was registered on 19.01.2013 and the petitioner has undergone the actual sentence of 10 months and 19 days as on 27.10.2021, meaning thereby he has undergone the actual sentence of 11 months approximately as on date. He has also earned remissions of 02 months and 05 days.

The Hon'ble Supreme Court in State of Punjab Vs. Saurabh Bakshi, 2015(2) RCR (Criminal) 495, while setting aside the order of the High Court, thereby reducing the sentence imposed upon the accused i.e. 1 year to the period already undergone by him i.e. 24, days, awarded the sentence of six months to the accused-respondent therein. It was held as under:-

*"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*

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*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."*

In view of the above, the prayer of the learned counsel for the petitioner for reducing the petitioner's sentence to the period already undergone, can be considered and allowed in terms of the judgment of the Hon'ble Supreme Court in Saurabh Bakshi's case (supra).

In view of the above, while upholding the conviction of the petitioner under Sections 279 and 304-A IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him. The fine imposed upon the petitioner along with its default clause, under the aforesaid section is maintained. Apart from that, the petitioner is directed to pay a sum of Rs.25,000/- as compensation to the legal heirs of deceased-Akash Walia, within a period of two months from today. It is made clear that in case, the compensation amount is not paid within the time stipulated, the present revision petition shall be deemed to have been dismissed. The petitioner be released

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forthwith, if not required in any other case, and further subject to the payment of fine, if not already paid.

Revision Petition is disposed of in the above terms.

**09.11.2021**

parveen kumar

**(HARNARESH SINGH GILL)**

**JUDGE**

|                            |        |
|----------------------------|--------|
| Whether reasoned/speaking? | Yes/No |
| Whether reportable?        | Yes/No |