

In the High Court of Punjab and Haryana at Chandigarh**CRR-3049-2019(O&M)**
Date of Decision: 19.03.2021

Gurshinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jitender Singh Dadwal, Advocate for the petitioner.

Mr. Saurav Khurana, DAG Punjab.

HARNARESH SINGH GILL, J.(Oral)

Case is taken up for hearing through video conferencing.

CRM-7928-2021

Prayer in the present application under Section 482 Cr.P.C. is for preponement of the date of hearing of the main case, which is already fixed for 26.07.2021.

Notice of the application.

On the asking of this Court, Mr. Saurav Khurana, DAG Punjab, accepts notice on behalf of the respondent-State and submits that he has no objection, if the aforesaid prayer is allowed.

In view of the above, the application is allowed and the date of hearing of the main case is preponed from 26.07.2021 to that of today and the same is taken on the Board.

Main case:

The petitioner has preferred this petition being aggrieved of the judgment dated 29.10.2019 passed by the Additional Sessions Judge, Amritsar, vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 10.08.2018, passed by the Judicial Magistrate 1st Class, Ajnala, in case FIR No. 54 dated 01.10.2012 under Sections 304-A, 279 and 427 IPC, registered at Police Station Jhander, was partly allowed, by upholding the judgment of conviction and order of sentence under Section 279 and 304-A IPC and setting aside the conviction under Section 427 IPC.

The brief facts of the present case are that complainant Arvinder Singh got recorded his statement to the effect that on 01.10.2012 his sister-in-law Sharanjit Kaur wife of Gurjit Singh gave birth to a son and her condition was not good. He along with his wife Harjit Kaur, Rajbir Kaur-wife of Surjit Singh and Dr. Sahib Singh of Simran Hospital, was going to Amritsar in an ambulance bearing registration No. PB-02-BP-2718. When they reached near canal bridge of village Sangatpura, a vehicle being driven in a rash and negligent manner, came from Amritsar side and struck against the aforesaid ambulance. As a result of this, Harjit Kaur, Rajbir Kaur and newly born baby died at the spot and the driver of ambulance also got injured, but he also died subsequently. On the basis of the statement made by the complainant, the FIR in question was registered.

After completion of investigation and necessary formalities, challan was presented against the petitioner.

Charges were framed against the petitioner under Sections 304-A, 427 and 279 IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as 13 witnesses.

In the statement recorded under Section 313 Cr.P.C., the accused denied the prosecution case and pleaded false implication.

The trial Court vide judgement and order dated 10.08.2018 convicted the petitioner under Sections 279 IPC and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 500/- and, in default of payment of fine, to undergo imprisonment for a period of one month, under Section 304-A IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 5,000/- and, in default of payment of fine, to further undergo imprisonment for a period of two months, under Section 427 IPC and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 500/- and, in default of payment of fine, to further undergo imprisonment for a period of one month.

As noticed above, the appeal preferred by the petitioner was partly allowed by the Appellate Court vide judgment dated 29.10.2019.

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

I have heard learned counsel for the parties and with their able assistance, have also gone through the paper book.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offences under Sections 304-A and 279 IPC. Learned counsel for the petitioner could not point out any perversity or illegality in the findings recorded by the Courts below nor could it be disputed by the learned counsel that on account of the rash and negligent driving of the petitioner, death of complainant's wife-Harjit Kaur, sister-in-law, Rajbir Kaur, her newly born baby and driver of ambulance-Raghuraj, took place. Thus, in my opinion, in view of the evidence on record, there is no scope for interference in the findings of the Courts below, so far as the conviction part is concerned. Hence, the conviction of the petitioner under Sections 304-A and 279 IPC is upheld.

At the outset, learned counsel for the petitioner has confined his arguments to the quantum of sentence with the submission that as the petitioner has already undergone for a period of more than six months out of total sentence of one year, the substantive sentence of the petitioner may be reduced the one already undergone by him.

On the other hand, learned State counsel while opposing the prayer of the learned counsel for the petitioner states that both the Courts below have taken a very lenient view, when a sentence of one year was imposed upon the petitioner. He further states that even on the sentence count, the petitioner does not deserve any indulgence by this Court.

FIR in this case was registered on 01.10.2012. The petitioner has been facing the agony of trial for the last more than 8 years. As notice above, the petitioner has already undergone six months out of the total

sentence of one year imposed upon him. Thus, taking into consideration the above facts and circumstances, in my opinion, no useful purpose would be served by keeping the petitioner behind bars to undergo the remaining period of sentence.

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. one 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 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."

Keeping in view of the law laid down by the Hon'ble Supreme Court in **Saurabh Bakshi's** case (supra) and further taking into consideration the fact that the petitioner has been facing the agony of trial for the last more than eight years, in my opinion, it is a fit case, where the substantive sentence imposed upon the petitioner can be reduced to the period already undergone by him i.e. more than six months.

Accordingly, while upholding the conviction of the petitioner under Sections 279, 304-A IPC, the sentence imposed upon him is reduced to the period already undergone by him. However, the fine imposed upon the petitioner along with its default clause, is maintained.

The petitioner is directed to deposit the fine of Rs. 40,000/- with the Chief Judicial Magistrate concerned within a period of one month

from the date of the receipt of certified copy of this order. The fine so deposited, shall be paid as compensation to the legal heirs of deceased persons i.e. driver of ambulance, complainant's wife, sister-in-law and her newly born baby, equally, on identification.

It is made clear that in the event of failure to deposit the said amount, the revision petition shall stand dismissed.

With the aforesaid order, the revision petition is disposed of.

(HARNARESH SINGH GILL)
JUDGE

19.03.2021

Mangal Singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No