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

CRR-3278-2019 (O&M)

Date of decision : 29.09.2021

Madan Lal

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr. Bharat Bhushan Sharma, Advocate for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

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

Challenge in the present Criminal Revision Petition is to the judgment dated 11.12.2015 passed by the Chief Judicial Magistrate, Karnal, vide which the petitioner had been convicted under Sections 279 and 304-A of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) and also to the order on quantum of sentence dated 12.12.2015 vide which the petitioner had been awarded the sentence which reads as follows:-

|                       |                                                                                                                                                                                                                                                                                              |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>U/s 279 of IPC</i> | <i>Convict is sentenced to undergo simple imprisonment for a period of six months and to pay fine of Rs.1000/- for the commission of offence punishable under section 279 of IPC. In default of payment of fine, convict shall undergo simple imprisonment for a period of fifteen days.</i> |
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| U/s 304-A IPC | Convict is sentenced to undergo simple imprisonment for a period of two years and to pay fine of Rs.1000/- for the commission of offence punishable under section 304-A of IPC. In default of payment of fine, convict shall undergo simple imprisonment for a period of two months. |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*It is further mentioned that both the sentences shall run concurrently. The period if any, which the accused/convict has already undergone in custody, be set off. Fine of Rs.2000/- paid by the convict. File after needful be consigned to the record room.”*

Challenge has also been made to the judgment 30.08.2019 passed by the Additional Sessions Judge, Karnal vide which the appeal preferred by the petitioner against the abovesaid judgment dated 11.12.2015 and order on quantum of sentence dated 12.12.2015, had been dismissed.

The case in brief of the prosecution is that one Atam Parkash had submitted a complaint Ex.PW7/A on the facts that on 19.04.2010, at about 11.00 am, a Swift car having registration No.HR-05-G0100, which was being driven in a very rash and negligent manner by the petitioner, hit the bicycle of Prem Parkash and as a result of that serious injuries were sustained by the said Prem Parkash and he died. On the basis of the said complaint, the FIR was registered against the petitioner. After completion of the investigation, the challan was presented against the petitioner and the charge-sheet was filed under Sections 279 and 304-A of the IPC on 10.9.2010, to which the petitioner pleaded not guilty and claimed the trial.

The prosecution has examined eight witnesses, in support of its case, which are as follows:-

1. PW1-Rajinder Parsad
2. PW2-Constable Sanjay Kumar
3. PW3-HC Amarjeet Singh
4. PW4-Constable Rishi Pal
5. PW5-ASI Mahabir Singh
6. PW6-Dr. Sucha Singh
7. PW7-ASI Sultan Singh
8. PW8-Complainant Atam Parkash

The statement of the petitioner under Section 313 of Cr.P.C. was recorded wherein he had denied all the allegations levelled against him.

PW8-Atam Parkash, who is the complainant as well as the eye-witness, had reiterated the occurrence and had deposed that the car in question, which was being driven by the petitioner in a very rash and negligent manner, hit the bicycle of Prem Parkash which resulted in the accident and the said Prem Parkash died on the spot. PW8 identified the petitioner who was present in the Court as being the driver of the offending vehicle.

PW6-Dr. Sucha Singh had proved on record the Postmortem report Ex.PW6/B and deposed that the cause of the death was brain injury.

PW7-ASI Sultan Singh was the Investigating Officer of the case and had supported the case of the prosecution and had also proved on record the statement of the complainant as Ex.PW7/A, police proceedings as Ex.PW7/B, site plan as Ex.PW7/C, memo as Ex.PW2/A vide which the bicycle was taken into possession and memo as Ex. PW4/A vide which offending vehicle alongwith its RC and driving licence of the petitioner

were taken into custody.

PW2-Constable Sanjay Kumar and PW3-HC Amarjeet Singh had also supported the case of the prosecution.

The said witnesses were cross-examined and nothing came out in their cross-examination so as to cause a dent in the case of the prosecution.

Keeping in view of the abovesaid documents and the evidence, the Chief Judicial Magistrate, Karnal had held the petitioner guilty under Sections 279 and 304-A of the IPC and awarded the sentence which has been reproduced hereinabove.

The Additional Sessions Judge, Karnal, after considering the entire material on record including the evidence and the documents produced and after re-appreciating the same, dismissed the appeal of the petitioner. It is against the said order that the petitioner has filed the present criminal revision petition.

During the course of arguments, learned counsel for the petitioner has submitted that although, he does not wish to challenge the conviction of the petitioner under Sections 279 and 304-A of the IPC but he would be satisfied in case a lenient view is taken with respect to the sentence which has been awarded to the petitioner. In this regard, he has submitted that the FIR in the present case is of the year 2010 and thus, the petitioner has suffered agony of trial/bail/revision for all these years and the petitioner was granted bail/suspension of sentence but he has never misused that concession. It is further submitted that the petitioner is 44 years of age and has three unmarried children out of which two are minor and he is the

sole bread winner in the family and the petitioner has already undergone 6 months and 24 days of actual custody out of the entire sentence awarded to him and has also earned remission of 15 days and thus, total sentence including remission is 7 months and 9 days. It is also submitted that the petitioner is not involved in any other case.

In support of his arguments, learned counsel for the petitioner has relied upon **CRR-1931-2010 decided on 23.07.2019 titled Chander Bhan Vs. State of Haryana** in which in a case where the petitioner had actually undergone sentence of 04 months and 07 days in a case under Sections 279 and 304-A of the IPC, this Court has 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 Sections 279/304-A of the 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 v. 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 State has stated that the judgments of

both the Courts below have been passed after considering the entire evidence and material on record. The other factual aspects have not been rebutted by the learned counsel for the State. He has also produced on record the custody certificate of the petitioner, which is taken on record, as per which, the period of custody as stated by the learned counsel for the petitioner, is correct.

This Court has heard the learned counsel for the parties.

Insofar as the conviction of the present petitioner under Sections 279 and 304-A of the IPC is concerned, this Court is of the view that both the Courts have considered the entire evidence and material on record in detail and have rightly come to the conclusion that it is the petitioner who was involved in the accident. PW8 was the eye-witness in the present case and he had specifically stated that it was the petitioner who was driving the car in question in a very rash and negligent manner and hit the bicycle of deceased-Prem Parkash, who had suffered injuries and had died on account of the said injuries suffered. Dr. Sucha Singh, who has been examined as PW6 had duly proved on record the Postmortem report which shows that the cause of the death was brain injury. PW7-Investigating Officer had duly proved on record all the documents including Ex.PW4/A which is the RC and driving licence of the offending car which was being driven by the petitioner. The other witnesses have also fully supported the case of the prosecution. Although, the said witnesses have been cross-examined, however, nothing came out in their cross-examination, so as to cause a dent in the case of the prosecution and thus, the conviction of the petitioner under Sections 279 and 304-A of the IPC, is upheld.

Insofar as the sentence which has been awarded to the petitioner is concerned, this Court is of the view that the accident in the present case is of the year 2010 and the petitioner has never misused the concession of bail/suspension of sentence. The petitioner is 44 years of age and is having three unmarried children out of which two are minor and he is the sole bread winner of the family. As per the custody certificate, he has already undergone 6 months and 24 days of actual custody and has also earned remission of 15 days and thus, total custody of the petitioner including remission is 7 months and 9 days.

Thus, in view of the abovesaid facts and circumstances, as also the judgments relied upon by the learned counsel for the petitioner, sentence awarded to the petitioner is ordered to be reduced to the period already undergone subject to the fact that an amount of Rs.30,000/- will be deposited by the petitioner before the concerned Chief Judicial Magistrate within a period of two months from the date of receipt of certified copy of this order.

It is also made clear that in case, the said amount is not deposited within the aforesaid period, then the present criminal revision petition would be deemed to have been dismissed.

The concerned Chief Judicial Magistrate, after the deposit of an amount of Rs.30,000/- by the petitioner as aforesaid, would issue notice to the legal representative of the deceased-Prem Parkash and thereafter, release the said amount to the said legal representative of the deceased.

With the abovesaid observations, the present criminal revision petition is disposed of.

Since, the main case has been decided, application bearing CRM-38413-2019 for suspension of sentence of applicant-petitioner is rendered infructuous and is disposed of as such.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

**29.09.2021**

*Pawan*

**(VIKAS BAHL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**