

239

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

**CRR-307-2022 (O&M)
DECIDED ON: 30th AUGUST, 2022**

SURESH

PETITIONER

VERSUS

STATE OF HARYANA

RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Neeraj Sheoran, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

On oral request of learned counsel for the parties, the main revision petition is taken up for hearing today, itself.

The instant revision petition has been filed against the judgment dated 20.12.2021 passed by learned Sessions Judge, Bhiwani, whereby the judgment of conviction dated 02.05.2012 passed by the learned Additional Chief Judicial Magistrate, Bhiwani had been affirmed for commission of offence under Section 304-A IPC. The petitioner was sentenced to undergo rigorous imprisonment for a period of one year and six months and to pay fine of ₹1000/-, vide order of sentence dated 02.05.2012 .

The facts in the backdrop of the case are that on 22.04.2009, after supplying the milk at Bhiwani, Vijay complainant/injured (since

deceased) alongwith Suresh (petitioner herein), was going to his village on his motorcycle. The petitioner was a pillion rider. He had got filled the petrol in the fuel tank of his motorcycle make Hero Honda bearing registration No. HR-19-C-7466 from Shaheed Petrol Pump near Pahladgarh, but forgot to fix the cap of the petrol tank. Suresh lit the matchbox to light up a cigarette, which resulted into breaking out fire in the motorcycle. Vijay too caught fire. The officials of the petrol pump extinguished the fire and got him admitted in General Hospital, Bhiwani wherefrom, he was referred to PGIMS, Rohtak. The occurrence had taken place allegedly due to the negligence of Suresh.

At the very outset, learned counsel for the petitioner confines his prayer to the quantum of sentence. He submits that FIR was registered on 28.04.2009 and as such the petitioner has faced the agony of trial for more than a decade. He has undergone more than four months custody, therefore, prayed for leniency by reducing the sentence to the period already undergone by him.

Learned counsel for the State opposes the prayer made by learned counsel for the petitioner. He submits that a human life was lost due to the negligence of the petitioner. His further submission is that learned trial Court appreciated the evidence and after analysing the facts on record, convicted the petitioner due to which no interference is called for.

Custody certificate by the State is filed today, which is taken on record. According to which the petitioner has undergone actual sentence of four months and twenty five days, including remissions.

Heard learned counsel for the parties and perused the record.

The contention of learned counsel for the petitioner regarding

quantum of sentence deserves acceptance. As per the custody certificate the petitioner has undergone total sentence of four months and twenty five days including remission.

It would be appropriate to note at this stage that FIR was registered on 28.04.2009, the petitioner has faced agony of trial for more than a decade.

Considering the fact that petitioner is first time offender, his wife has been diagnosed with Cervical Cancer and is under treatment and has faced agony of trial for a considerable long period, to meet the ends of justice, the criminal revision petition is partly allowed.

There is no ground made out in the revision petition for interference in the impugned judgment of conviction, order of sentence as well as the order of the appellate Court. The conviction of the petitioner is upheld.

The conviction of the petitioner is upheld, however, his sentence is reduced to the period already undergone by him, subject to payment of fine of ₹10,000/- over and above the fine imposed by the trial Court. The petitioner is directed to be released, if not required in any other case, subject to payment of enhanced fine of ₹10,000/- to be deposited with learned Chief Judicial Magistrate, concerned.

The application i.e. CRM-5866-2022 for suspension of sentence stands disposed of, as having been rendered infructuous in view of disposal of main revision petition.

SANDEEP MOUDGIL
JUDGE

30th AUGUST, 2022.

sham

- | | |
|---------------------------------|----------|
| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |