

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

**Reserved on 16th of November, 2022
Pronounced on 23rd of December, 2022**

CRR No.696 of 2020

Tehlu

.....Petitioner

Versus

State of U.T., Chandigarh

.....Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arshdeep Bhullar, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Neeraj Sharma, Advocate for
Mr. Charanjit S. Bakshi, Addl. Public Prosecutor
for the respondent-U.T., Chd.

PANKAJ JAIN, J.

Present revision petition is directed against the judgment passed by Additional Sessions Judge, Chandigarh affirming conviction of the petitioner under Sections 279, 337, 304-A IPC in FIR No.327 dated 6th October, 2011 registered at Police Station Sector 31, Chandigarh and the order of sentence.

2. As per the custody certificate produced by the State, the petitioner has already undergone 5 months and 7 days out of the awarded sentence of 1 year.

3. As per the case of prosecution, on 5th of October, 2011 at around 11:30 pm, the complainant Priti, her husband Sunil (deceased) along with their two kids were travelling on motorcycle when they were hit by

truck-tipper driven by the petitioner. Sunil received serious injuries and was taken to GMCH-32 from where he was referred to PGIMER, Chandigarh. Sunil succumbed to the injuries suffered by him in the accident and breathed his last in PGIMER, Chandigarh. Complainant appeared as PW-4 and narrated the whole incident. Trial Court found her testimony credible and after analyzing the evidence threadbare held the petitioner guilty of offences punishable under Sections 279, 337 and 304-A IPC and sentenced him as under :

Offence	Imprisonment	Imprisonment in default of payment of fine
U/s 279 IPC	To undergo rigorous imprisonment for six months	--
U/s 337 IPC	To undergo rigorous imprisonment for six months	--
U/s 304-A	To undergo rigorous imprisonment for one year	--

4. The Appellate Court while reiterating the 'doctrine of quality of evidence rather than quantity' upheld the judgment passed by the Trial Court and dismissed the appeal preferred by the petitioner.
5. Ld. Counsel for the petitioner has argued that the only eyewitness examined is the interested witness. The petitioner was not arrested from the spot and his identification still remains a riddle. In the absence of independent witness the findings recorded by the courts below deserve to be reversed. He has drawn attention of the Court to the observations made by Apex Court in **State of Punjab vs. Saurabh Bakshi**,

2015(2) RCR Criminal 4950, to the effect that opportunity may be granted to the convict for reforming himself and while deciding upon the quantum, the Court is not precluded from invoking principle of proportionality while weighing the allegations against the petitioner *vis-a-vis* the sentence awarded. In the case of **Saurabh Bakshi's** case, sentence of 1 year imposed by the Trial Court was ordered to be reduced to 6 months.

6. In support of his prayer, counsel for the petitioner relies upon **Jagdish Chander vs. State of Delhi, AIR 1973 2127** wherein the Apex Court taking in view the mitigating circumstances, reduced the sentence of imprisonment from six months to a period of three weeks of imprisonment already undergone by the accused. He also relies upon **Nand Ballabh Pant vs. State (Union Territory of Delhi), AIR 1977 890**, wherein the accused, convicted under Section 304-A of IPC, was sentenced to two months RI and the same was reduced by Supreme Court to one month and the fine was enhanced from Rs.500 to Rs 1,000/-.

7. Reliance has been placed upon the orders passed by Co-ordinate Bench in **Criminal Revision No.843 of 1995** titled as **Nirmal Singh @ Pappu Vs. State of Haryana** decided on 4th of March, 2008, wherein the sentence of convict under Section 304-A IPC was reduced to already undergone. He further relies upon **CRR-1931-2010** decided on 23rd of July, 2019 titled as '**Chander Bhan vs. State of Haryana**' wherein considering the factum of law laid down by Saurabh Bakshi's case (supra), this Court reduced the sentence to the period actually undergone.

8. Per contra, State Counsel has relied upon **Vadivelu Thevar vs. State of Madras, A.I.R. (1957) S.C. 614** to submit that it is settled law that it is credibility/quality of the evidence that merits consideration rather than the quantity thereof.

9. I have heard Ld. Counsel for the parties and have perused the records of the case.

10. From bare reading of testimony of PW-4 Priti-the complainant, it is evident that her truthfulness could not be breached by lengthy cross-examination. She being an injured witnesses, there cannot be any dispute w.r.t. her presence on the spot. The offending vehicle was recovered from the spot. So far as the identity of the petitioner is concerned, PW4-complainant is unambiguous in her testimony to state that the driver of the offending vehicle had come to see them after the accident and there she asked about his name. She has identified him in the Court. Thus, it is evident that the complainant had a reason to remember the petitioner and identification of the offender in Court by such witness can well be relied upon. Reliance can be placed upon law laid down in **Ravindra @ Ravi Bansi Gohar vs. State of Maharashtra, (1998) 6 SCC 609**.

11. Ld. Counsel for the petitioner has not been able to point out any infirmity in the orders passed by the Courts below which would warrant interference while exercising revisional jurisdiction under Section 401 Cr.P.C. However, the Court finds that the petitioner has suffered prolonged trial for more than 11 years. He has undergone about 5 months and 7 days

out of substantive sentence of 1 year. He is reported to have never misused concession of bail/suspension of sentence. The petitioner is the first time offender and has no past criminal record or antecedents.

12. Keeping in view the cumulative effect of the aforesaid circumstances and in view of law laid down by Apex Court in **Saurabh Bakshi's** case (supra), the sentence of the petitioner is modified to the actual sentence already undergone by him.

13. Ordered accordingly.

December 23, 2022

Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No