

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

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**CRR-491-2022 (O&M)
Date of decision: 24.05.2022**

PARVEEN

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Lokesh Vohra, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G. Haryana.

VINOD S. BHARDWAJ. J.(Oral)

1. The present petition arises from the judgment dated 18.01.2022 passed by the Court of Sessions Judge, Panipat as well as judgment of conviction dated 25.10.2021 and order of sentence dated 26.10.2021 passed by the Judicial Magistrate First Class, Samalkha whereby the petitioner has been convicted and sentenced in case bearing FIR No. 112 dated 09.06.2017 registered under Sections 279 & 304-A of the Indian Penal Code, 1860 at Police Station Sanoli, District Panipat as under :-

Section	Sentence	Fine	In default of Payment of fine
279 of Indian Penal Code	Rigorous imprisonment for a period of six months	Rs.1,000/-	Simple imprisonment for a period of one month
304-A of Indian Penal Code	Rigorous imprisonment for a period of two years	Rs.1,000/-	Simple imprisonment for a period of one month

2. A perusal of the order sheets shows that the matter had came up for hearing on 15.03.2022 wherein counsel for the petitioner sought time to seek instructions regarding the readiness and willingness on the part of petitioner to pay enhanced compensation to the family of the deceased. Thereafter, on resumed hearing on 05.04.2022, learned counsel for the petitioner sought instructions as to whether the petitioner wishes to raise a challenge to the conviction on merits or not. On the adjourned date i.e. 02.05.2022, learned counsel for the petitioner submitted that he has instructions not to raise a challenge to the conviction on merits and that he had also sought instructions that the petitioner is ready and willing to pay an additional compensation of Rs. 1,00,000/- to the family of deceased.

3. Even though notice was issued to the newly added respondents namely Joginder Singh son of Sahi Ram and Rajinder @ Rajender Kumar son of Sahi ram and Kusum wife of Rajinder @ Rajender Kumar son of Sahi Ram/legal heirs of deceased Ankit, however, the service report is still awaited.

4. Learned counsel for the petitioner has also placed on record the proceedings before the Judicial Magistrate First Class, Samalkha as per which an amount of Rs.1,00,000/- has already been deposited by the petitioner before the trial Court.

5. Apparently, the FIR in question was instituted by Joginder Singh, uncle of the deceased who is not a legal representative of the deceased Ankit. The legal representatives of the deceased have not raised any challenge wherein the judgment passed by the trial Court or passed by the revisional Court. Learned counsel

appearing on behalf of the petitioner has reiterated that he has instructions from his client to give up any challenge to the conviction on merits and that he restricts his prayer only to the extent of the sentence so imposed. Before proceeding further into the matter, the brief facts claiming filing of the instant petition are extracted as under :-

5.1 That complainant namely Sh. Joginder son of Sahi ram got recorded his statement to HC Yudhisthar alleging therein that on 09.06.2017 at about 09:30 AM, his nephew namely Sh. Ankit Rawal son of Rajender was going from village Chhajpur Khurd, Samalkha for his work on motorcycle bearing registration No. HR-60F-8067. When he reached near tubewell of advocate Badlu, then black coloured motor cycle bearing registration No. HR-05AQ-0148 branded Honda Dream Yoga came in rash and negligent manner with high speed and directly hit Ankit who fell on the road. It is alleged that blood was oozing from his head. Moreover, motorcycle side stand and his helmet got broken. The complainant made a call to Parveen son Ramphal and Tejpal son of Maha Singh for help meanwhile Ankit succumbed to accidental injuries on the spot. Thus it was prayed to take necessary legal action against accused.

5.2. On the basis of which, formal FIR was registered and investigation was conducted. Accused was arrested. After completion of investigation, challan under Sections 279 and 304-A of the Code, 1860 against accused Parveen son of Suresh was prepared and filed in the court. Copy of challan was supplied to accused free of cost as mandated under Section 207 of the Cr. P. C.

5.3. Finding prima-facie case against accused being made out,

he was charge sheeted under Section 279 and 304-A of the Code, 1860 vide order dated 07.03.2018 passed by the Judicial Magistrate First Class. The charge was read and explained to the petitioner-accused to which he pleaded not guilty and claimed trial.

5.4. In order to prove its case, the prosecution has examined nine witnesses namely PW1 Rajinder, PW2 Dr. Pawan, complainant PW3 Joginder, PW4 EHC Ravinder, Motor Mechanic; PW5 SI Satish Kumar; PW6 EHC Karam Singh; PW7 HC Sandeep Kumar; PW8 Inspector Narender Kumar and PW9 HC Yudhisthar, Investigating Officer.

5.5 The entire incriminating material was put to the accused who pleaded not guilty and no evidence was led in defence.

5.6 That upon consideration of the evidence brought on record and the rival submissions advanced by the respective parties, the Judicial Magistrate First Class, Samalkha convicted the petitioner for commission of offences punishable under Section 279 and 304-A of the IPC. Aggrieved of the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Court of Sessions Judge, Panipat. Vide judgment dated 18.01.2022 , the Sessions Judge, Panipat dismissed the appeal and maintained the judgment passed by the trial Court. Hence, the present petition.

6. I have heard learned counsel appearing on behalf of the parties and have gone through the record with their able assistance.

7. While confining his prayer to the quantum of sentence, learned counsel for the petitioner has submitted that the petitioner is 35

years of age and has four minor children. His younger child is 08 months old while the eldest child is 09 years of age. He has an entire family to support and that the incident in question did not occur on account of any criminal intention or any malice. The same was only a matter of chance. He further contends that the petitioner does not have any other criminal case registered against him. It is also pointed out that even though the FIR in question was registered in the year 2017 and the petitioner had remained on bail during the trial and also during the appeal, however, there is no such repetition of incident or any involvement in any criminal case. He contends that the petitioner has thus shown reformative tendencies as always following the rule of law.

8. Learned State counsel on the other hand has submitted that the petitioner does not deserve any concession as Ankit-the deceased had lost his life as a result of direct hit occasioned by an active rash and negligent driving on the part of the petitioner. He said that incidents of rash and negligent driving are on the rise and that any display of undue leniency towards an accused is likely to compound commission of such offences. He however, could not dispute the fact that the petitioner is not involved in any other case and that the petitioner is not a fugitive in law.

9. The Hon'ble Supreme Court in the matter of ***"State of Punjab versus Saurabh Bakshi"*** passed in Criminal Appeal No. 520 of 2015 dated 30.03.2015 had reduced the sentence of 02 years for commission of offence under Section 304 (A) of the IPC to a period of 06 months and this Court also in the matter of ***"Jaswant Singh versus State of Punjab"*** passed in CRR No. 1239 of 2012 dated 29.08.2019 had reduced the sentence to already undergone where the

petitioner had undergone an actual custody of 04 months and 27 days.

10. An amount of fine deposited with the Judicial Magistrate First Class, Samalkha may be disbursed to the legal heirs of deceased Ankit by the Judicial Magistrate First Class, Samalkha. The order of sentence is modified to a period of six months and the compensation of Rs.1,00,000/- already deposited by the petitioner shall be disbursed to the legal heirs of deceased Ankit.

With the above modification, the instant petition is partly allowed.

MAY 24, 2022

Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No