

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(242)

CRR-456-2022 (O&M)
Date of decision : - 19.05.2022

Kiran Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Kumar, Advocate, for the petitioner.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

VIKAS BAHL, J. (ORAL)

Challenge in the present revision petition is to the judgment dated 26.11.2019 vide which the petitioner has been convicted for the offence under Sections 279 and 304-A of IPC and has been sentenced as under:-

Sr. No.	Name of the accused	U/Sec.	Sentence Awarded
1	Kiran Kumar	279 IPC	To undergo rigorous imprisonment for a period of six (6) months
2	Kiran Kumar	304-A IPC	To undergo rigorous imprisonment for a period of two (2) years, and to pay fine of Rs. 3000/-. In default of payment of fine, he shall further undergo RI for a period of 15 days.

Both the sentences will run concurrently. The period for which the convict has been in custody during the pendency of investigation and trial of this case, shall however be set off against the substantive sentence of imprisonment awarded to him. Bail bonds and surety bonds of accused are hereby discharged. Case property be disposed of as per rules after the expiry of period of filing of

Appeal/Revision, if any. File be completed and consigned to Record Room.

Challenge is also to the judgment dated 14.12.2021, vide which the appeal against the said judgment filed by the petitioner has also been dismissed by the Sessions Judge, Jalandhar.

Learned counsel for the petitioner has submitted that he does not wish to challenge the conviction of the petitioner but would be satisfied if a lenient view is taken with respect to the sentence, which has been awarded to the petitioner. In this regard, it has been submitted that the incident is of the year 2015 and the petitioner has suffered the agony of trial/appeal/revision for all these years and the petitioner was granted bail/suspension of sentence but he has never misused the said concession. It is further submitted that the petitioner is a young person, of 27 years of age and has two minor children and wife and is the sole bread winner of his family. It is further submitted that the petitioner has already undergone sentence of 5 months and 4 days of actual custody and has also earned remission of 16 days, thus, his total sentence including remission is 5 months and 20 days.

In support of his arguments, learned counsel for the petitioner has relied upon **CRR-1931 of 2010** decided on 23.07.2019 titled as **Chander Bhan Vs. State of Haryana** where the petitioner therein had actually undergone sentence of 04 months and 07 days in a case registered under Sections 279 and 304-A IPC, a Coordinate Bench of this Court had 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 Section 279/304-A 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 Vs. 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 petitioner has further submitted that the fine of Rs.3,000/- has already been deposited by the petitioner.

Learned counsel for the respondent-State has submitted that the judgments of both the Courts below are well reasoned and have been passed after taking into consideration the entire evidence and the material on record. However, the fact with respect to the custody of the petitioner as well as having never misused the concession of bail/suspension of sentence has not been disputed by the learned State counsel.

Vide order dated 05.05.2022, the complainant in the present case was directed to be impleaded as respondent No.2, but however, in spite of service, nobody has appeared on behalf of respondent No.2.

This Court has heard the learned counsel for the parties and has perused the record.

As far as the conviction of the present petitioner under Sections 279 and 304-A of IPC is concerned, this Court is of the view that both the Courts have considered the entire evidence and record in detail and have rightly come to the conclusion that it was the petitioner who was involved in the incident.

The brief background of the case is that on 24.07.2015, HC Harjinder Kumar along with other police officials was on patrol duty and upon reading Jehang Octroi Post, Phillaur, the complainant met them and got his statement recorded, wherein he had stated that on 24.07.2015, he along with his father Iqbal Singh, went to their fields in the area of village Sailkiana. After some time, his father left for dhaba on his motorcycle bearing No. PB-37-G-3328 whereas he was following him on his separate motorcycle and at about 8:30 a.m. when they reached near Satsang Bhagwan, Sailkiana, his father was driving his motorcycle on the left side of the road and in the meantime, a vehicle bearing No.PB-08-CP-1726 of make TATA Xenon, came from the opposite side and the same was being driven at a high speed and in a rash and negligent manner by a person with cut hair and it struck and hit the motorcycle of his father on account of coming from the wrong side of the road, due to which, his father sustained injuries on all over his body and subsequently, his father succumbed to the said injuries.

After investigation, the challan was presented and the charges were framed.

The prosecution had examined the defence witnesses i.e. PW-1 Davinder Singh, complainant, PW-2 HC Harpinder Singh, PW-3 Gurdawar Singh, PW-4 Jatinder Singh, PW-5 Dr. Ashwani Kumar, PW-6 Satpal,

Reader, PW-7 Nirmal Kapoor, Jr. Assistant, PW-8 HC Harjinder Kumar.

PW-1 Davinder Singh had proved the case of the prosecution as he was the eye witness in the present case and also identified the petitioner as the person who had caused the accident.

PW-2 Head Constable Harpinder Singh had categorically deposed that on 24.07.2015, he along with Investigating Officer and other police officials were on patrol duty and when they reached near Tehang Chungi, Phillaur, complainant Davinder Singh met them and got recorded his statement with the Investigating Officer, wherein, Investigating Officer scribed ruqa, Ex.PW.2/A, on the basis of which, FIR in question was recorded by ASI Dilbagh Singh and had also given statement with respect to taking over possession of the vehicles involved in the accident, vide memos, Ex.PW.2/D and Ex.PW.2/E.

PW-5 Dr. Ashwani Kumar, Medical Officer, Civil Hospital, Phillaur, had proved on record postmortem report of deceased Iqbal Singh as Ex.PW5/A and had also proved the injuries, which were seven in numbers and the same had been suffered by the deceased on account of the said accident.

PW-7 Nirmal Kapoor, Jr. Assistant, RTA office, Jalandhar and PW-8 is HC Harjinder Kumar had fully supported the case of the prosecution and the said witnesses had been cross-examination, but nothing had come out so as to cause a dent in the case of the prosecution, thus, the conviction of the under Section 279 and 304-A IPC stands proved and the same is upheld.

As far as sentence which has been awarded to the petitioner is

concerned, this Court is of the view that keeping in view the fact that the incident in the present case is of the year 2015 and the petitioner has never misused the concession of bail/suspension of sentence and that the petitioner is not involved in any other case and also the fact that the petitioner is 27 years of age and has two minor children and wife and he is the sole bread winner of his family and has undergone an actual sentence of 5 months and 4 days after conviction and also in view of the judgments relied upon by the learned counsel for the petitioner, it is ordered that the sentence awarded to the petitioner is reduced from rigorous imprisonment of 2 years to rigorous imprisonment of 6 months. The same would be subject to the petitioner depositing an amount of Rs.40,000/- with the Court of the concerned Illaqa Magistrate/trial Court, Phillaur, within a period of two months from today. The learned concerned Illaqa Magistrate/trial Court, Phillaur is directed to issue notice to the legal representatives of the deceased after the said amount is deposited by the petitioner so that the said amount can be paid to the legal representatives of the deceased.

With these observations, the present petition is disposed of.

It is made clear that in case the said amount of Rs.40,000/- is not deposited within a period of two months from today, the present petition shall be deemed to have been dismissed.

All the pending miscellaneous application(s), if any, shall stand disposed of in view of the abovesaid order.

May 19, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
Yes