

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

CRR No. 539 of 2019 (O&M)

Date of decision : 10.11.2022

Balbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present :- Mr. Sukhtej Singh Sandhu, Advocate
(Legal Aid Counsel)
for the petitioner.

Mr. P. S. Pandher, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this revision petition is for setting aside the judgment of conviction dated 12.12.2012 and the order of sentence of the even date passed by the trial Court, vide which the petitioner was convicted for the offence punishable under Sections 279 and 304-A of the Indian Penal Code, 1860 (*in short 'IPC'*) and was sentenced to undergo rigorous imprisonment for a period of 02 years under Section 304-A IPC and a period of 06 months under Section 279 IPC along with a fine of Rs.5,000/- with default clause as well as for setting aside the judgment dated 10.04.2018, vide which the appeal preferred by the petitioner was dismissed by the lower appellate Court, however, the sentence was reduced to 01 year.

Brief facts of the case are that the present case was registered on the statement of complainant Sohan Singh with the allegations that on 01.03.2007, his son Gurjit Singh, who was working

with him at his shop, after finishing the work was going on his motorcycle bearing registration number PB-23-D-8549 along with one Amardeep Singh of his village, who has a tyre puncture shop and the motorcycle was being driven by Gurjit Singh and that he (complainant) was going on his scooter behind them and at about 9.00 p.m., when they reached at Ropar Bus Stand, Bassi Pathana, then one Truck Ashoka Leyland bearing registration number HR-37-A-6014 came from Morinda side, loaded with wood, being driven by its driver in rash and negligent manner and struck against the motorcycle of Gurjit Singh. As per complainant, due to said accident, Gurjit Singh and Amardeep Singh fell down on the road and motorcycle was also damaged and said truck ran over Gurjit Singh and on seeing the condition of the injured, truck driver fled away from the spot taking the benefit of the darkness. It is further stated that the complainant took Gurjit Singh and Amardeep Singh to Bawa Nursing Home, Bassi Pathana, where the doctors declared Gurjit Singh to be 'brought dead' and Amardeep Singh was referred to PGI, Chandigarh due to his serious condition and on 02.03.2007, a telephonic message was received that Amardeep Singh had also died. As per complainant, the accident had taken place due to rash and negligent driving of said Truck by its driver.

After registration of the case, the Investigating Officer visited the spot and the motorcycle and offending truck involved in the accident were taken into police possession. Post mortem examination on the dead bodies of Gurjit Singh and Amardeep Singh was got conducted. The Investigating Officer recorded the statements of the witnesses under Section 161 Cr.P.C. and accused/petitioner Balbir

Singh was arrested. Further investigation was carried out and after completion of the investigation, *challan* against the accused was presented before the trial Court.

On presentation of the *challan*, charge under Sections 279, 304-A of the was framed against the accused, to which he pleaded not guilty and claimed trial.

The prosecution, in order to prove its case against the accused, examined PW1 Namdev photographer, PW2 Karam Singh, PW3 Sarabjit Singh clerk office of RTO Ambala, PW3 (sic) Dr. Shatrughan Parshad Mandal, PW4 Dr.Kuldeep Singh, PW5 Sohan Singh complainant, PW6 Himmat Singh clerk DTO office Fatehgarh Sahib, PW7 Sher Singh, PW8 ASI Nirmal Singh and thereafter, the remaining evidence of the prosecution was closed by order of the trial Court.

After conclusion of the evidence of the prosecution, the statement of petitioner/accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against him, was put to him to tender explanation for the same. The petitioner/accused denied the allegation of the prosecution and pleaded his innocence and false implication, however, he did no produce any evidence and closed his defence evidence.

The trial Court, after hearing learned counsel for the parties and appreciating the evidence on record, convicted and sentenced the accused/petitioner as noticed above.

Feeling dissatisfied with the judgment of conviction dated 12.12.2012 and the order of sentence of the even date passed by the

trial Court, the accused/petitioner preferred an appeal before the lower appellate Court but the same was dismissed, however, the sentence was reduced to 01 year. Hence, the present revision.

It is worth noticing that vide order dated 11.04.2019, considering the fact that the petitioner had undergone substantive portion of his sentence, his sentence was suspended.

Learned counsel for the petitioner, at the very outset, has submitted that since out of the total sentence of 01 year and 06 months, as reduced by the lower appellate Court, the petitioner has already undergone a period of 01 year of total sentence, he does not want to address arguments on merits and also submitted that the sentence of the petitioner may be reduced to the period already undergone by him.

Learned counsel for the petitioner, in support of his arguments, has also submitted that the petitioner is the first offender and he is not involved in any other case. It is further submitted that the petitioner is a poor person and has his own family to support and the petitioner has faced the agony of protracted trial and the Courts below have not take a lenient view considering the age of the petitioner and has also not granted the benefit of Probation of Offenders Act, therefore, by taking a lenient view, the sentence awarded to the petitioner may be reduced to the period already undergone by him.

Learned State counsel, on the basis of the custody certificate dated 25.03.2019, has not disputed the factual position and he has no serious objection to the prayer made by learned counsel for the petitioner.

After hearing learned counsel for the parties, I uphold the

judgment of conviction passed by the Courts below as the same are based on appreciation of prosecution evidence, proving guilt of the petitioner, however, considering the fact that the petitioner has faced the agony of protracted trial; the petitioner has already undergone about 01 year of total sentence; the petitioner is not involved in any other case and also in view of the fact that he is a poor person and has his own family to support, the present revision petition is ***partly allowed*** and the sentence awarded to the petitioner is reduced to the period already undergone by him. However, the imposition of fine of Rs.5,000/- is upheld. The petitioner is directed to deposit the fine, if not deposited so far, within a period of 02 months from today.

Bail/surety bonds of the petitioner be discharged, accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

10.11.2022
Waseem Ansari

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No