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

**\*\*\***

**CRR-487-2021 (O&M)**

**Decided on : 2<sup>nd</sup> February, 2022**

Moti Lal

Petitioner

Versus

The State of Haryana

Respondent

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Vivek Sharma, Advocate for the petitioner.

Ms. Geeta Sharma, Deputy Advocate General, Haryana.

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**AVNEESH JHINGAN, J (Oral):**

[1] Due to COVID-19 situation, the Court is convened through video conference.

[2] This criminal revision petition is filed being aggrieved of conviction under Sections 279, 337 and 338 the Indian Penal Code, 1860 [for short 'IPC'] vide judgment dated 9<sup>th</sup> October, 2018 and order dated 11<sup>th</sup> October, 2018 of quantum of sentence. Further, upholding of conviction by dismissal of appeal by the Sessions Judge, Fatehabad on 5<sup>th</sup> April, 2021 is also under challenge.

[3] The relevant facts are that FIR No. 357, dated 10<sup>th</sup> June, 2015 was registered on receiving the information of a road side accident. An Indica Car bearing registration No.HR-20L-8434

[hereinafter referred to as 'negligent vehicle'] being driven by the petitioner in a rash and negligent manner hit the Indica Car bearing registration No. RJ-14SC-9388. The Car was being driven by Virender and occupants of the car were Santosh, Ravinder and Suman [hereinafter referred to as 'injured']. The negligent vehicle hit the car, as a result of the impact, the car struck against a tree. During the trial, in spite of PW-2 and PW-3 turning hostile, it was proved by other prosecution witness and evidence produced that accident was due to rash driving of negligent vehicle. On 9<sup>th</sup> October, 2018, the petitioner was convicted and vide order dated 11<sup>th</sup> October, 2018, he was sentenced to undergo imprisonment as under:-

| Section | Sentence          | Fine        | Sentence in default of fine |
|---------|-------------------|-------------|-----------------------------|
| 279 IPC | S.I. for 3 months | Rs. 500/-   | S.I. for 1 month            |
| 337 IPC | S.I. for 6 months | Rs. 500/-   | S.I. for 1 month            |
| 338 IPC | S.I. for 1 year   | Rs. 1,000/- | S.I. for 2 months           |

The appeal filed against the conviction was dismissed and order of conviction and quantum of sentence were upheld.

[4] At the very outset, learned counsel for the petitioner confines his prayer to the quantum of sentence. He submits that FIR was registered on 10<sup>th</sup> June, 2015 and petitioner has faced the agony of trial and has undergone more than five months custody, the sentence be reduced to the period already undergone.

[5] Learned counsel for the State opposes the prayer made by learned counsel for the petitioner. Submission is that learned trial

Court appreciated the evidence and after analysing the facts on record, convicted the petitioner and no interference is called for. Custody certificate by the State is filed today, the petitioner has undergone actual sentence of five months and twelve days.

[6] Heard learned counsel for the parties at some length and perused the record.

[7] There is no ground made out in the revision petition for interference in the impugned judgment of conviction and the appellate order. The conviction of the petitioner is upheld.

[8] 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 five months and twelve days.

[9] The Supreme Court in ***State of Punjab v. Saurabh Bakshi, 2015(2) RCR (Criminal) 495***, while setting aside the order of the High Court, reduced the sentence of one year to twenty four days i.e. Period already undergone, awarded sentence of six months to the accused. The relevant para is quoted below:-

*“17. In the instant case the factum of rash and negligent driving has been established. This court has been constantly noticing the increase in number of road accidents and has also noticed how the vehicle drivers have been totally rash and negligent. It seems to us driving in a drunken state, in a rash and negligent manner or driving with youthful adventurous enthusiasm as if there are no traffic rules or no discipline of law has come to the centre stage.*

*The protagonists, as we perceive, have lost all*

*respect for law. A man with the means has, in possibility, graduated himself to harbour the idea that he can escape from the substantive sentence by payment of compensation. Neither the law nor the court that implements the law should ever get oblivious of the fact that in such accidents precious lives are lost or the victims who survive are crippled for life which, in a way, worse than death. Such developing of notions is a dangerous phenomenon in an orderly society. Young age cannot be a plea to be accepted in all circumstances. Life to the poor or the impecunious is as worth living for as it is to the rich and the luxuriously temperamental. Needless to say, the principle of sentencing recognizes the corrective measures but there are occasions when the deterrence is an imperative necessity depending upon the facts of the case. In our opinion, it is a fit case where we are constrained to say that the High Court has been swayed away by the passion of mercy in applying the principle that payment of compensation is a factor for reduction of sentence to 24 days. It is absolutely in the realm of misplaced sympathy. It is, in a way mockery of justice. Because justice is "the crowning glory", "the sovereign mistress" and "queen of virtue" as Cicero had said. Such a crime blights not only the lives of the victims but of many others around them. It ultimately shatters the faith of the public in judicial system. In our view, the sentence of one year as imposed by the trial Magistrate which has been affirmed by the appellate court should be reduced to six months."*

[10] Considering the law laid down by the Supreme Court and the facts that petitioner is first time offender, he is only bread earner of the family, he has faced agony of trial for a considerable long period

and undergone custody of more than five months, present is a case of injury sustained in the accident, to meet the ends of justice, the criminal revision petition is partly allowed.

[11]           The conviction of the petitioner is upheld, his sentence is reduced to the period already undergone by him subject to payment of fine as imposed by the trial Court. The petitioner is directed to be released, if not required in any other case, subject to payment of fine.

[12]           Since the petition is disposed of, the prayer made in the application i.e. CRM-12232-2021 for suspension of sentence during the pendency of the present petition renders infructuous.

**[AVNEESH JHINGAN]**  
**JUDGE**

**2<sup>nd</sup> February, 2022**  
*pankaj baweja*

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|-------------------------------|---|-----|
| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable         | : | Yes |