

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

CRR-1568-2009

Date of decision : 21.12.2022

Gaganjit Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Aminder Singh Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

PANKAJ JAIN, J. (Oral)

This revision has been filed challenging the judgment dated 26.05.2009 passed by the Additional Sessions Judge, Patiala whereby the Appellate Court upheld the judgement of conviction and order of sentence dated 12.08.2005 passed by the JMIC, Nabha.

2. The petitioner has been convicted for the offence punishable under Section 279, 304-A IPC and has been sentenced as under :-

Section (IPC)	Imprisonment	Fine (in Rs.)	In default of payment of fine (imprisonment)
279	06 months	1000	07 days
304-A	02 years	2000	15 days

3. As per the case of prosecution, the case was registered on the statement of Jasbir Singh to the effect that on 03.09.2002, his son Avtar Singh, aged about 14 years, was going to his school on bicycle ahead to him, towards Nabha. When they reached near Village Khurd on Nabha Bhadson road, a car bearing registration No.DL-8CF-0923 came from the

opposite side in a rash and negligent manner, hit the bicycle of his son Avtar Singh, who died on the spot. It was alleged that the petitioner after the accident came to him and disclosed his name and then fled away from the spot. Statements of witnesses were recorded. Accused-petitioner was arrested, offending vehicle was taken into possession vide recovery memo and after completion of investigation, challan against the petitioner was presented.

4. Trial Court after appreciating the evidence on record, came to the conclusion that the prosecution has proved its case beyond doubt. Accident was caused on account of rash and negligent driving by petitioner and thus, convicted him for offences punishable under Section 304-A IPC read with Section 279 IPC.

5. The petitioner preferred an appeal before the lower Appellate Court. The learned appellate Court found that the judgment and order of sentence by the learned trial Court does not suffer from any infirmity and consequently, dismissed the appeal.

6. Counsel for the petitioner contends that in case, finding of conviction is being maintained, the act of the petitioner is of negligence and not intentional. He is a first time offender and sole bread earner of his family. He submits that apart from this case, there is no other case pending against the petitioner. Thus he prays that a lenient view be taken against the petitioner especially in the light of the fact that he is facing protracted trial for the last 17 years.

7. Learned State counsel submits that both the Courts below have rightly found petitioner guilty of offences punishable under Section 304-A IPC read with Section 279 IPC. It is a case wherein a precious life

was lost in the accident.

8. In support of his prayer, counsel for the petitioner relies upon ***Jagdish Chander vs. State of Delhi*** reported as ***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 further relies upon ***Nand Ballabh Pant vs. State (Union Territory of Delhi)*** reported as ***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.

9. Further reliance has been placed upon the orders passed by Coordinate Bench in ***Criminal Revision No.843 of 1995 titled as Nirmal Singh @ Pappu Vs. State of Haryana*** decided on 04.03.2008, wherein the sentence of convict under Section 304-A was reduced to already undergone. Apex Court in the case of '***Surendran vs. Sub-Inspector of Police, 2021 SCC Online SC 445***' and '***K. Jagadish vs. State of Karnataka, 2018 SCC Online SC 2489***' reduced the sentence imposed by the Trial Court to 06 months.

10. I have heard learned counsel for the parties and have carefully gone through the record of the case.

11. No doubt, it is a case of rash and negligent driving by the petitioner. However, it cannot be lost sight of the fact that the petitioner is a first time offender. There is no case pending against him and has already faced protracted trial for last 17 years. Considering all these facts cumulatively, sentence awarded to the petitioner by the Courts below is reduced to 6 months.

12. Petition is disposed off, accordingly.

(PANKAJ JAIN)
JUDGE

21.12.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No