

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2428 of 2009
Date of Decision : 01.12.2022

Krishan Kumar
.....Petitioner

Versus

UT of Chandigarh
.....Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Maninder Arora, Advocate
for the petitioner.

Mr. Ankur Bali, Addl. P.P., U.T., Chandigarh.

PANKAJ JAIN, J.

Petitioner has been convicted for offence punishable under
Section 279, 304-A and has been sentenced as under :-

Offence	Sentence	Fine	In default
279 IPC	To undergo rigorous imprisonment for six months	Rs.5,00/-	To further undergo rigorous imprisonment for one month.
304-A IPC	To undergo rigorous imprisonment for a period of one year	Rs.5,00/-	To further undergo rigorous imprisonment for one month.

2. The order of conviction passed by the Trial Court and that of sentence stands affirmed by the Appellate Court. As per the case of the prosecution on 16th of August, 2001 a wireless message was received in the police station *qua* vehicular accident between Truck bearing No.HR-37A-2441 and a cycle. Statement of one Sri Pal present on the spot was recorded who stated that deceased Sunil Kumar was struck by the truck

being driven at high speed negligently. After crushing the bicycle the truck dragged Sunil Kumar to some distance and then stopped. Sunil Kumar died on the spot. Truck driver was apprehended on the spot who disclosed his name as Krishan Chand. Trial Court after analyzing the evidence relied upon the statements of PW-4 Sri Pal, the complainant and PW-5 Ram Pal, the two eyewitnesses and held the petitioner guilty of offence punishable under Section 279, 304-A IPC and sentenced him in the terms *ibid*.

3. Ld. Counsel for the petitioner submits that there is no evidence on record to prove negligence on part of the petitioner and there is no link that could prove involvement of the petitioner in the alleged occurrence. He further submits that the accident is dated 16th of August, 2001. The petitioner has faced prolonged trial for about 21 years and has never misused the concession of bail during the same. As per the Custody Certificate, the petitioner has undergone custody of 4 months and 3 days and, thus, keeping in view the aforesaid factors, sentence be reduced to already undergone.

4. Mr. Ankur Bali, Addl. Public Prosecutor representing the respondent - U.T., Chandigarh, submits that since the petitioner was apprehended from the spot thus, there cannot be any doubt w.r.t. his involvement in the occurrence. Negligence on part of the petitioner already stands proved by cogent evidence in form of statements suffered by PW-4 and PW-5, who were the two eyewitnesses to the accident. It is the case wherein a young man lost his life due to negligence on part of the petitioner

and, thus, no lenient view should be taken.

5. I have heard Ld. Counsel for the parties and have gone through the records of the case.

6. The fact that the petitioner was apprehended from the spot and his licence was taken into custody by the police authorities leaves no doubt w.r.t. occurrence of the accident and involvement of the petitioner. So far as negligence is concerned, admittedly the eyewitnesses have fully supported the case of the prosecution and there is nothing on record that can dent the case of prosecution *qua* negligence attributed to the petitioner. Thus, there is no infirmity in the findings recorded by the Courts below w.r.t. guilt of the petitioner. Consequently, conviction of the petitioner for offence punishable under Sections 379/304-A is maintained.

7. In case of **State of Punjab vs. Saurabh Bakshi, 2015(2) RCR Criminal 4950**, Apex Court has held that opportunity may be granted to the convict for reforming himself and while deciding upon the quantum, the Court is not precluded from invoking principle of proportionality while weighing the allegations against the petitioner *vis-a-vis* the sentence awarded. In **Saurabh Bakshi's** case, sentence of 1 year imposed by the Trial Court was ordered to be reduced to 6 months.

8. The petitioner is the first time offender and has no past criminal record or antecedents. He is not stated to have ever misused concession of bail/suspension of sentence. He has undergone about 4 months and 3 days out of substantive sentence of 1 year. He is facing

protracted trial for last 21 years.

10. Keeping in view the cumulative effect of the aforesaid circumstances and in view of law laid down by Apex Court in **Saurabh Bakshi's** case (supra), the sentence of the petitioner is reduced to six months.

11. Since the petitioner has already undergone 4 months and 3 days out of awarded sentence of 1 year, he is directed to surrender before the CJM/Jail Authorities concerned within two weeks from the date of communication of this order. On his doing so, he shall be taken into custody forthwith to suffer the remaining period of his sentence.

12. In case the petitioner does not surrender within the stipulated period, CJM concerned shall order arrest of the petitioner for compliance of the above-said direction.

13. Ordered accordingly.

December 01, 2022

Dpr

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No