

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2564 of 2009 (O&M)
Date of decision : 15.11.2022

Jaikam
.....Petitioner

Versus

State of Haryana
...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Laghuinder S. Sekhon, Advocate (Amicus Curiae)
for the petitioner.

Mr. R.K. Ambavta, Asstt. Advocate General, Haryana
for the respondent/State.

PANKAJ JAIN, J. (ORAL)

This revision has been filed challenging the judgment dated 1st of September, 2009 passed by the Additional Session Judge, Nuh whereby the Appellate Court upheld the judgement of conviction and order of sentence dated 13th of March, 2007/15th of March, 2007 passed by the SDJM, Ferozepur Jhirka.

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

Offence u/s	Period of Sentence (RI)	Fine imposed	Period of sentence in default of payment of fine
279 IPC	Six months	-	-
304-A IPC	Two years	-	Simple Imprisonment for three days

3. As per the case of prosecution, on 23rd of June, 2000 on

receiving information police reached at the spot and recorded the statement of Data Ram who stated that on the fateful day while he was sitting on a bench along with Madan (deceased) son of Nannu Ram, a Marshal Jeep bearing registration No.RJ-05-C-2114 driven by the petitioner namely Jaikam son of Chahat was being reversed in a rash and negligent manner. It struck the bench on which the deceased and the complainant were sitting. As a result thereof, Madan was trapped between the jeep and the wall. Madan lost his life after his head was hit against the wall. Petitioner was put to trial and found guilty of offences punishable under Sections 279, 304-A IPC and was awarded sentence as mentioned herein above. In appeal the judgment of conviction and order of sentence dated 13th of March, 2007/ 15th of March, 2007 were maintained.

4. Ld. Counsel for the petitioner has drawn attention of this Court to the facts of the case to submit that herein the accident occurred while offending vehicle was being reversed. He thus submits that though negligence may be attributed to the petitioner but he cannot be said to be rash. He further submits that out of substantive sentence of two years, the petitioner has undergone actual sentence of 6 months and 17 days which with remission turns out to be 7 months and 27 days. The petitioner has suffered prolonged protracted trial for last more than 22 years and, thus, ends of justice will be met if the sentence awarded to the petitioner is modified to the already undergone. He further submits that the petitioner is

around 50 years of age. There is no other case against him. During trial and during pendency of the present revision petition before this Court, the petitioner has never misused the concession of bail or suspension of sentence. He has drawn attention of the Court to the observations made by Apex Court in **State of Punjab vs. Saurabh Bakshi, 2015(2) RCR Criminal 4950**, to the effect 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 the case of **Saurabh Bakshi's** case, sentence of 1 year imposed by the Trial Court was ordered to be reduced to 6 months.

5. In support of his prayer, counsel for the petitioner relies upon **Jagdish Chander vs. State of Delhi, 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 also relies upon **Nand Ballabh Pant vs. State (Union Territory of Delhi), 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/-.

6. Reliance has been placed upon the orders passed by Co-ordinate 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 IPC was reduced to already undergone. He further relies upon **CRR-1931-2010** decided on 23.07.2019 titled as '**Chander Bhan vs. State of Haryana**' wherein considering the factum of law laid down by Saurabh Bakshi's case (supra), this Court reduced the sentence to the period actually undergone.

7. I have heard learned counsel for the parties and have carefully gone through the records of the case.

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 8 months out of substantive sentence of 2 years. He is facing protracted trial for last 22 years.

9. Keeping in view the cumulative effect of the aforesaid circumstances, the sentence of the petitioner is modified to the actual sentence undergone by him.

10. Ordered accordingly.

November 15, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No