

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 1177 of 2010 (O&M)

DECIDED ON:22nd March, 2022

Jaswant Singh
.....PETITIONER
VERSUS
State of Haryana
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Karamveer Singh Banyana, Advocate for petitioner.
Ms. Geeta Sharma, DAG Haryana.

AVNEESH JHINGAN, J (ORAL)

This criminal revision petition is filed being aggrieved of conviction by Sub Divisional Judicial Magistrate, Pehowa under Sections 279 and 304-A of the Indian Penal Code, 1860 [for short 'IPC'] vide judgment dated 28.7.2009 and order dated 29.7.2009 of quantum of sentence. Further, upholding of conviction by dismissal of appeal by the Additional Sessions Judge, Kurukshetra on 19.3.2010 is also under challenge.

An accident took place wherein riders of motor cycle bearing registration No. HR-41-A-4867 Lakhbir Singh and his wife Sukhwinder Kaur lost their lives due to rash and negligent driving of truck bearing registration No. HR01A-0225 driven by the petitioner.

The prosecution by examining ten witnesses and relying upon the evidence was able to discharge the onus and prove the involvement of vehicle driven by petitioner in the accident and rash and negligent driving of petitioner.

The petitioner was convicted and sentenced as under:

Under Section	Imprisonment RI	Payment of fine (Rs.)	In default of fine (SI)
279 IPC	Six months		
304-A IPC	One year	500/-	15 days

At the very outset, learned counsel for the petitioner confines his prayer to the quantum of sentence. He submits that FIR was registered on 27.1.2004, the petitioner has faced agony of trial for more than 18 years. He has undergone more than eight months custody, the sentence be reduced to the period already undergone by him.

Learned counsel for the State opposes the prayer, she submits that two human lives were lost due to rash and negligent driving of the petitioner. Submission is that learned trial Court appreciated the evidence and after analysing the fact convicted the petitioner, hence, no interference is called for. Custody certificate by the State is filed today. The petitioner has undergone total sentence of nine months (including remission) out of sentence of one year.

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

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.

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 nine months including remission. It would be appropriate to note at this stage that FIR was registered on 27.1.2004, the petitioner has faced agony of trial for more than 18 years.

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."

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 and has faced agony of trial for a considerable long period, to meet the ends of justice, the criminal revision petition is partly allowed.

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.

22nd March, 2022

reema

**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned *Yes*
Whether reportable *Yes*