

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

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CRR-1245-2022 (O&M)

Date of Decision: 29.11.2022

AMIR SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Aminder Singh, Advocate
for the petitioner.

Mr. Gurlal Singh Dhillon, AAG Punjab.

HARNARESH SINGH GILL, J.(Oral)

Challenge in the present petition is to the judgment dated 18.05.2022 passed by the learned Additional Sessions Judge, Sangrur, whereby, while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 10.11.2017 passed by the learned Judicial Magistrate 1st Class, Suman, in FIR No.108 dated 30.08.2013, under Sections 304-A, 279 and 427 IPC, Police Station Chhajli, has been upheld.

Custody certificate by way of an affidavit dated 26.11.2022 of the Deputy Superintendent of Police, Sangrur Jail, filed by the learned State counsel, in the Court today, is taken on record.

The petitioner was tried for committing the above-noted offences and on the basis of the evidence led, it stood proved before the learned trial Court that on account of the rash and negligent driving of

the petitioner, Dalbara Singh had suffered injuries and succumbed to the same. Consequently, the petitioner was convicted under Sections 304-A, 279 and 427 IPC and sentenced to undergo rigorous imprisonment for a maximum period of one year and with fine, along with default clause. All the sentences had been ordered to run concurrently.

Aggrieved of the judgment and order passed by the learned trial Court, the petitioner preferred an appeal before the learned Additional Sessions Judge, Sangrur. However, vide order dated 18.05.2022 passed by the learned Additional Sessions Judge, Sangrur, the appeal was dismissed, thereby affirming the judgment and order passed by the learned trial Court.

Still aggrieved, the petitioner has preferred the present revision petition.

Learned counsel for the petitioner submits that the allegation against the petitioner is that, he was driving the tempo in a rash and negligent manner and struck the motorcycle of the deceased.

At this stage, learned counsel for the petitioner, submits that without disputing the findings of guilt recorded against the petitioner-accused, he confines his prayer to the quantum of sentence only. Learned counsel contends that the present FIR was registered on 30.08.2013 and that the petitioner has been facing the agony of protracted trial for the last 09 years approximately. Still further, out of the total substantive sentence of 1 year, the accused-petitioner has already undergone actual sentence of 6 months and 12 days. It is, thus, submitted that taking into consideration

the period of sentence already undergone by the accused-petitioner, the sentence imposed upon him may be reduced to the period already undergone by him.

In support of his contentions, learned counsel for the petitioner places reliance upon the judgment dated 30.03.2015 passed by the Hon'ble Supreme Court in case of State of Punjab vs. Saurabh Bakshi, 2015 (2) RCR Criminal (495).

I have heard the learned counsel for the parties.

The Hon'ble Supreme Court in Saurabh Bakshi's case (supra), while setting aside the order of the High Court, thereby reducing the sentence imposed upon the accused i.e. 1 year to the period already undergone by him i.e. 24, days, awarded the sentence of six months to the accused-respondent therein. It was held as under:

“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."

Taking into consideration that the petitioner-accused was driving the tempo, bearing registration No.PB-10-DA-2159, in a rash and negligent manner and had caused injuries to Dalbara Singh and caused his death not amounting to culpable homicide, no fault could be found with the judgments and order passed by the Courts below. Still further, as noticed above, learned counsel for the petitioner has rightly not disputed the finding of guilt recorded by the Courts below. In view of the said fact, the conviction of the petitioner under Sections 304-A, 279 and 427 IPC is upheld.

Coming to the quantum of sentence, as stated above, the petitioner has already undergone the sentence of 6 months and 12 days

out of the total sentence of 1 year. Taking into account that the petitioner has been facing the agony of protracted trial for the last 09 years approximately, in my opinion, no useful purpose would be served by keeping him behind the bars to undergo the remaining sentence. Rather, ends of justice would be suitably met, if the sentence of the petitioner is reduced to the one already undergone.

In view of the above, while maintaining the conviction of the petitioner under Sections 304-A, 279 and 427 IPC, his sentence is reduced from 1 year to one already undergone. The fine imposed upon the petitioner along with its default clause, under the aforesaid Sections, is maintained. Apart from that, the petitioner is directed to pay a sum of Rs.1,00,000/- as compensation to the legal heirs of deceased, within a period of two months from today.

It is made clear that in case, the compensation amount is not paid within the time stipulated, the present revision petition shall be deemed to have been dismissed. The petitioner be released forthwith, if not required in any other case, and further subject to the payment of fine, if not already paid.

Revision Petition is disposed of in the above terms.

29.11.2022

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>