

CRR-2317 of 2016

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

CRR-2317 of 2016
Date of decision: 15.11.2022

Balraj Singh

.....Petitioner

vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Mohinder Pal, Advocate, for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

Mr. Abhinav Singla, Advocate,
for Mr. Amit Goyal, Advocate, for respondent No.2.

NAMIT KUMAR, J. (ORAL)

Through this revision, petitioner-accused has laid challenge to judgment of conviction and order of sentence dated 10.03.2016 passed by the Court of learned Sessions Judge, Sirsa, whereby petitioner has been convicted and sentenced to undergo rigorous imprisonment for a period of three months under Section 279 IPC and to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹5,000/- under Section 304-A IPC and in default of payment of fine to undergo rigorous imprisonment for a period of three months in a case arising from FIR No.82 dated 01.06.2008 under Sections 279, 337, 427 IPC read with Sections 304-A IPC registered at Police Station Kalanwali, Sirsa, Haryana.

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During the course of hearing, learned counsel for the petitioner does not lay any challenge to the judgment of conviction of the petitioner recorded by the Court below and for that reason, the facts are not required to be reproduced here.

Learned counsel for the petitioner has made submissions only on the aspect of sentence on which this Court has heard him as well as the learned State counsel.

While making submissions qua the quantum of sentence, learned counsel for the petitioner would submit that the petitioner is a first offender; that he has no shady past and that he has been facing the agony of the trial since 2008. Out of total sentence of one year, petitioner has undergone sentence for more than 8½ months. He further submits that no useful purpose will be served by sending the petitioner behind the bars anymore since his sentence has been suspended by this Court vide order dated 07.11.2016. Under these circumstances, the sentence imposed upon the petitioner may be reduced to the one already undergone by him.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner, would submit that the sentence awarded to the petitioner is in proportion to the offence committed by him. The petitioner does not deserve any leniency.

I have heard the learned counsel for the parties.

Having heard the learned counsel for the parties and after a lucid examination of the record, this Court finds that the appellate Court rightly convicted and sentenced the petitioner under Sections 279 and 304-A IPC. There is no manifest error in the findings recorded by the

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court below.

However, the fact remains that the FIR was registered in the year 2008 and as per custody certificate dated 14.11.2022, petitioner has already undergone actual sentence for 08 months and 06 days.

The Hon'ble Supreme Court in ***State of Punjab Vs. Saurabh Bakshi, 2015(2) RCR (Criminal) 495***, 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 the agony of trial faced by the petitioner for the period of 14 years and further in view of the judgment of the Hon'ble Apex Court in **Saurabh Bakshi's** case (supra), in my opinion, the ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him.

In view of the above, while upholding the conviction of the

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petitioner under Sections 279 and 304-A IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him.

Disposed of.

15.11.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No