

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR-2046-2022 (O&M)
Decided on :20.12.2022

Jasvir Singh @ Jassa
Versus
State of Punjab

... Petitioner
... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. F. S. Virk, Advocate
for the petitioner.
Mr. Amit Shukla, AAG, Punjab.

VIKAS BAHL, J. (Oral)

Challenge in the present revision petition is to the judgment
and the sentence awarded dated 27.05.2019 vide which the petitioner
has been convicted as under:-

<i>Name accused</i>	<i>of</i>	<i>Offence under which the accused is convicted</i>	<i>Sentence imposed upon the convict</i>
<i>Jasvir Singh</i>		<i>279</i>	<i>Rigorous imprisonment for six months and fine Rs.500/- in default of payment of fine, convict shall further undergo RI for 15 days.</i>
		<i>304-A IPC</i>	<i>Rigorous imprisonment for two years and fine Rs.1,000/- in default of payment of fine, convict shall further undergo RI for one month.</i>

However, all the sentences shall run concurrently.

Challenge is also to the judgment dated 18.07.2022 vide
which the appeal filed by the petitioner was dismissed and the sentence

was upheld.

Learned counsel for the petitioner has submitted that he does not wish to challenge the conviction of the petitioner but would be satisfied if a lenient view is taken with respect to the sentence, which has been awarded to the petitioner. In this regard, it has been submitted that the incident is of the year 2014 and the petitioner has suffered the agony of trial/appeal/revision for all these years and the petitioner was granted bail/suspension of sentence but he has never misused the said concession. It is further submitted that the petitioner is the sole bread winner in the family and has two minor children and old parents. It is further submitted that the petitioner has already undergone actual sentence after conviction of 5 months and 1 day and has also earned remission of 16 days and thus, making the total undergone sentence including remission to be 5 months and 17 days.

In support of his arguments, learned counsel for the petitioner has relied upon order of the Coordinate Bench in CRR-1931 of 2010 decided on 23.07.2019 titled as ***Chander Bhan Vs. State of Haryana*** where the petitioner therein had actually undergone sentence of 04 months and 07 days in a case registered under Sections 279 and 304-A IPC, the Coordinate Bench of this Court had suspended the sentence by imposing a fine of Rs.25,000/- and the judgment of the Hon'ble Supreme Court in ***State of Punjab Vs. Saurabh Bakshi***, reported as ***2015 (2) RCR (Criminal), 495*** was also considered. Further reliance has been placed upon a judgment of another Coordinate Bench

of this Court in CRR-4830-2016 decided on 08.03.2017 titled as **“Balwinder Singh @ Binder Vs. State of Punjab”** in which case also the sentence was reduced to four months in a case of conviction under Section 279/304-A IPC where rigorous imprisonment was awarded for 02 years. In the said case also, the judgment of the Hon'ble Supreme Court in **Saurabh Bakshi's** case (supra) was considered. Further, reliance has also been placed upon judgment titled as **Jaswant Singh Vs. State of Punjab, CRR-1239-2012** decided on 29.08.2019, reported as **2020 (1) RCR (Criminal) 163**, wherein after taking into consideration the judgment of the Hon'ble Supreme Court in **Saurabh Bakshi's** case (supra), the sentence was reduced to the custody already undergone. It is further contended that the fine in the present case has already been deposited by the petitioner.

Learned counsel for the respondent-State has submitted that the judgments of both the Courts below are well reasoned and have been passed after taking into consideration the entire evidence and the material on record. However, the fact with respect to the custody of the petitioner, as well as him having never misused the concession of bail/suspension of sentence has not been disputed by the learned State counsel.

This Court has heard learned counsel for the parties and has perused the paperbook.

Brief background in the present case is that the present FIR was registered on the statement of Randhir Singh @ Dhir Mann on the

allegation that on 23.11.2014 at about 01:00 PM in the area of GT Road, Patiala, the present petitioner was driving a truck bearing No. PB-11AP-6875 in a rash and negligent manner and caused the death of Malkeet Singh @ Meeta and also damaged motorcycle and after the registration of the FIR, the police party reached the spot and the case property was taken into police possession and after the investigation was complete, challan was presented and charges were framed against the petitioner. The prosecution had examined the following witnesses in support of its case:-

PW-1 Pawan Kumar

PW-2 Dr. Jaskaval

PW-3 HC Jagmail Singh

PW-4 ASI Rajinder Kumar

PW-5 ASI Pardeep Kumar

PW-6 Randhir Singh

PW-7 HC Didar Singh

After recording of the said evidence, the statements of the accused under Section 313 Cr.P.C. were recorded. Learned trial Court after considering the entire evidence and the documents on record, had convicted the petitioner as has been detailed hereinabove. The appeal filed by the petitioner was dismissed by the Additional Sessions Judge vide judgment dated 18.07.2022. No illegality or perversity has been pointed out in the judgments of the Courts below. Moreover, in the present case, PW-6 Randhir Singh was the eye witness who had fully supported the case of the prosecution and reiterated the fact that it was

on account of rash and negligent driving of the present petitioner that the accident had taken place and on account of that, the deceased had suffered injuries. PW-2 Dr. Jaskaval , Senior Resident, Government Medical College and hospital, Patiala who had conducted the postmortem of Malkeet Singh proved the postmortem report as Ex.PW2/A. PW-1 Pawan Kumar, photographer, proved the photographs Ex.PW8/A to Ex.PW8/C. PW-3 HC Jagmail Singh has deposed that apart from the motorcycle, even the truck alongwith documents and driving license of the petitioner were taken into police possession vide memo Ex. PW-3/B. PW-4 ASI Rajinder Kumar had deposed that on 24.11.2014 he had mechanically checked the truck bearing No. PB-11AP-6875 and proved on record its mechanical test report as Ex.PW4/A and PW4/B. PW-5 ASI Pardeep Kumar as well as PW-7 HC Didar Singh have also fully supported the case of the prosecution. Nothing has come out in the cross examination so as to cause a dent in the case of the prosecution and thus the conviction of the petitioner under Section 279, 304 A IPC is upheld.

As far as the sentence which has been awarded to the petitioner is concerned, this Court is of the view that keeping in view the fact that the incident in the present case is of the year 2014 and the petitioner has never misused the concession of bail/suspension of sentence and also the fact that the petitioner is the sole bread winner in the family and has 2 minor children and there is no one to support them and the petitioner has already undergone actual sentence of 5 months

and 1 day after conviction and has also earned remission of 16 days and thus, making the total undergone sentence including the remission as 5 months and 17 days and also in view of the judgments relied upon by learned counsel for the petitioner, it is ordered that the sentence ordered to the petitioner is reduced from rigorous imprisonment of 2 years to rigorous imprisonment of 6 months.

The same would however be subject to the petitioner depositing an amount of Rs.50,000/- with the Court of the concerned Illaqa Magistrate/trial Court, Rajpura, within a period of two months from today. The learned concerned Illaqa Magistrate/trial Court, Phillaur is directed to issue notice to the legal representatives of the deceased after the said amount is deposited by the petitioner so that the said amount can be paid to the legal representatives of the deceased.

With these observations, the present petition is disposed of. It is made clear that in case the said amount of Rs.50,000/- is not deposited within a period of two months from today, the present petition shall be deemed to have been dismissed.

All the pending miscellaneous application(s), if any, shall stand disposed of in view of the abovesaid order.

20.12.2022*Mehak***(VIKAS BAHL)
JUDGE**Whether reasoned/speaking?
Whether reportable?Yes/No
Yes/No