

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

**238**

**CRR-2851-2019 (O&M)**

**Date of Decision: 03.03.2022**

AJAIB SINGH

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. PS Sekhon, Advocate  
for the petitioner.

Mr. Harbir Sandhu, AAG Punjab.

Mr. RS Gill, Advocate  
for respondent No.2.

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**HARNARESH SINGH GILL, J.(Oral)**

Challenge in the present petition is to the judgment dated 15.10.2019 passed by the learned Additional Sessions Judge, Patiala, whereby, while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 07.12.2017 passed by the learned Judicial Magistrate 1<sup>st</sup> Class, Samana, in FIR No.242 dated 04.09.2013, under Sections 304-A, 279 and 427 IPC, Police Station Patran, has been upheld.

Custody certificate by way of an affidavit dated 03.03.2022 of the Deputy Superintendent, Central Jail, Patiala, filed by the learned State counsel, in the Court today, is taken on record.

The petitioner was tried for committing the above-noted offences. As per the prosecution, on 04.09.2013 at about 12:30 p.m.,

Inderjit Singh, son of the complainant was hit by a car make Vista, bearing registration No.PB-11-AZ-0956, being driven in a rash and negligent manner and at a high speed. As a result of the aforesaid, son of the complainant had succumbed to the injuries.

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, the son of the complainant had suffered injuries and succumbed to the same. Consequently, the petitioner was convicted under Sections 304-A, 279 and 427 IPC and sentenced as under:-

| Sr. No. | Under Section | Imprisonment                                                                                                                              |
|---------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 1.      | 304-A IPC     | To undergo simple imprisonment for 02 years and to pay of Rs.4,000/- and in default of payment of fine simple imprisonment for 04 months. |
| 2.      | 279 IPC       | To undergo simple imprisonment for 06 months and to pay of Rs.1,000/- and in default of payment of fine simple imprisonment for 10 days.  |
| 3.      | 427 IPC       | To undergo simple imprisonment for 06 months and to pay of Rs.1,000/- and in default of payment of fine simple imprisonment for 10 days.  |

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, Patiala. However, vide order dated 15.10.2019 passed by the learned Additional Sessions Judge, Patiala, 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 car make Vista in a rash and negligent manner and struck the cycle of the deceased. He further submits that a compromise dated 13.11.2021 has been executed between the petitioner and father and wife of the deceased and an amount of Rs.1,15,000/- has been paid to the legal heirs of the deceased.

At this stage, learned counsel appearing 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 04.09.2013 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 02 years, the accused-petitioner has already undergone the sentence of 03 months and 06 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 the alternative, learned counsel would submit that if this Court is not inclined to grant the said prayer of the petitioner, then the petitioner may be released on probation, considering the fact that he has already undergone 3 months and 06 days out of the total sentence of 2 years.

In support of his contentions, learned counsel for the petitioner places reliance upon judgment of the Coordinate Bench of this

Court in CRR-444-2019 titled Sunil Kumar Vs State of Haryana, decided on 22.07.2019.

I have heard the learned counsel for the parties.

Taking into consideration that the petitioner-accused was driving the car, bearing registration No.PB-11-AZ-0956, in a rash and negligent manner and had caused injuries to the son of the complainant 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 03 months and 06 days out of the total sentence of 02 years. 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 petitioner is released on probation of good conduct for a period of one year subject to supervision of the Probation Officer as per the conditions laid down in the Probation of Offenders Act.

In view of the above, while maintaining the conviction of the petitioner under Sections 304-A, 279 and 427 IPC, his substantive sentence is set aside. Instead, he is ordered to be released on probation

for a period of one year subject to his executing bonds to the satisfaction of the Chief Judicial Magistrate concerned, undertaking to keep peace and and be of good behaviour for the said period and to appear and receive the sentence as and when called upon to do so in case of violation of any of the conditions of the bonds.

Disposed of in the above terms.

03.03.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No