

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

240

CRR-338-2020 (O&M)

Date of Decision: 18.01.2023

Tarsem Masih

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Binay Sharma, Advocate for
Mr. Ritesh Pandey, Advocate for the petitioner.

Mr. G.S. Sandhu, Deputy Advocate General, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

Through this revision, accused has laid challenge to judgment dated 03.12.2019 of the First Appellate Court, affirming judgment of conviction and order of sentence dated 24.01.2019 of the trial Court, whereby he was held guilty under Sections 279, 304-A and 338 IPC and sentenced as under:

Under Section	Sentence
279 IPC	To undergo imprisonment for 06 months and to pay a fine of Rs.500/- and in default thereof, to further undergo imprisonment for 07 days.
304-A IPC	To undergo imprisonment for 2 years and to pay a fine of Rs.500/- and in default thereof, to further undergo imprisonment for 07 days.
338 IPC	To undergo imprisonment for 01 year and to pay a fine of Rs.500/- and in default thereof, to further undergo imprisonment for 07 days.

All the sentences were ordered to run concurrently.

Briefly, the petitioner was booked and tried in case FIR

No. 111 dated 02.06.2014 registered under Sections 279, 304-A and 427 IPC at Police Station Dinanagar, for causing death of one Vinod Kumar, brother of complainant-Vinay Kumar, on account of rash and negligent driving of Scorpio bearing registration No. PB-35-R-0017.

The trial Court after holding full fledged trial, convicted and sentenced the petitioner in the manner as narrated above, vide judgment/order dated 24.01.2019.

Being aggrieved, the petitioner approached the Ist Appellate Court, but remained un-successful as his appeal too was dismissed, vide judgment impugned herein.

Learned counsel for the petitioner states that he does not challenge conviction of the petitioner on merits and confines his prayer to the quantum of sentence only. This criminal trial is hanging on his head like damocle's sword for more than 08 years, which should be a sufficient mitigating circumstance to treat him leniently. The petitioner has suffered the ordeal for long period. Out of total sentence two years, petitioner has undergone actual sentence of more than 1½ year. Petitioner is not involved in any other case.

As per custody certificate dated 17.01.2023, petitioner has already undergone actual sentence of 01 year, 06 months and 29 days.

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.”

Therefore, in view of the arguments advanced by learned counsel for the petitioner, this Court is of the view that no useful purpose will be served by keeping the petitioner behind the bars any more. It is a fit case wherein sentence awarded to the petitioner can be reduced to the period already undergone.

Ordered accordingly.

Impugned judgment of conviction stands affirmed with

above modification. The petitioner shall be released forthwith in this case, if, not required in any other case and subject to deposit of fine imposed by the trial Court, due, if any.

Disposed of.

Since, the main revision stands disposed of, therefore, all the criminal miscellaneous applications pending, if any, shall also stand disposed of.

January 18, 2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No