

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(308)

CRR No.557 of 2007
DATE OF DECISION:-17.02.2023

Bahadur Ali ...Petitioner

vs.

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sudhanshu Khanna, Advocate, for
Mr. P. S. Khurana, Advocate, for the petitioner.

Mr. I. P. S. Sabharwal, DAG, Punjab.

HARKESH MANUJA, J.

By way of present petition filed under Section 401 of the Code of Criminal Procedure, 1973, petitioner prays for setting aside the judgment dated 12.03.2007 passed by Additional Sessions Judge, Fast Track Court, Ludhiana, whereby, the appeal preferred by him against the judgment of conviction and order of sentence dated 29.08.2005 passed by Judicial Magistrate Ist Class, Ludhiana, (hereinafter referred to as “JMIC, Ludhiana”) was dismissed.

Vide judgment dated 29.08.2005, learned JMIC, Ludhiana, convicted and sentenced the petitioner as under:

Offence(s)	Period of sentence(s)	Fine imposed	Period of sentence in default of payment of fine
U/s 279 IPC	RI for 6 months	Nil	Nil
U/s 304-A IPC	RI for 1 year	Rs.2,000/-	RI 2 months
U/s 427 IPC	Nil	Rs.500/-	RI 15 days

All the sentences were ordered to run concurrently and the same was later upheld in appeal vide dated 12.03.2007, passed by the Additional

Sessions Judge, Ludhiana, challenging the same, learned counsel for the petitioner submits that the petitioner was never arrested at the spot & was implicated later on by the police. He also submits that even as per the statements made by the alleged eye witnesses, the name of petitioner was disclosed to them by the police and thus the findings recorded by both the Courts below against him were illegal and perverse. On the point of quantum of sentence, learned counsel further submits that occurrence in question pertains to the year 1996 and thus, the petitioner has suffered the agony of criminal prosecution for the last about 26 years, besides incarceration for 4 months and 13 days. Learned counsel also submits that the compensation of Rs.2,00,000/- has already been paid to the claimants in a claim petition being filed on their behalf against the petitioner. Learned counsel again submits that the petitioner is a law abiding citizen and is not involved in any other criminal case, thus, a lenient view may be taken and quantum of sentence awarded to the petitioner be reduced to the period already undergone as no useful purpose would be served by sending him behind the bars. In support of his arguments, learned counsel relies upon order dated 23.07.2019 passed in **CRR No.1931 of 2010 titled as Chander Bhan Vs. State of Haryana**, where, the petitioner who has actually undergone a sentence of 4 months and 7 days in a case under Section 279 and 304-A IPC, this Court reduced his the sentence by imposing a fine of Rs.25,000/-. Further, reliance has also been placed upon a judgment of this Court in **CRR-4830-2016** decided on 08.03.2017 titled as **Balwinder Singh alias Binder Vs. State of Punjab**, in which case also, the sentence was reduced to 4 months in a case of conviction under Section 279 and 304-A IPC where, rigorous imprisonment awarded was for 2 years.

On the other hand, learned State counsel vehemently opposes the prayer made at the instance of learned counsel for the petitioner. Learned counsel submits that decision by both the Courts below is very categoric and as such, the sentence awarded to the petitioner is in proportion to the offence committed by him, therefore, no leniency is warranted in the facts of the present case.

I have learned counsel for the parties and perused the judgments passed by the Courts below and do not find any illegality or perversity in the same, the accident in question having caused due to negligent driving of petitioner has been sufficiently proved. I am, however, of the considered view that the incident is of the year 1996, and petitioner has paid compensation of Rs.2 Lakhs to the claimants and undergone actual sentence of 4 months 13 days out of total sentence of 1 year besides, and has also faced the agony of criminal prosecution for more than 26 years now. Thus, keeping in view these facts and circumstances as well as the judgments relied upon by learned counsel for the petitioner, I am of the view that ends of justice would be met if while maintaining the conviction of the petitioner, the substantive sentence of one year is reduced to the period of sentence already undergone by him in the present case.

However, fine imposed on the petitioner is enhanced from Rs.2500/- (Rs.2000/- + Rs.500/- under Section 304-A and 427 IPC respectively) to Rs.50,000/-. It is made clear that in case of non-deposit of fine with the trial Court within a period of two months from the date of this order, benefit of reduction of sentence shall not accrue to the petitioner and he will be required to undergo remaining part of his sentence. However, on deposit of fine, the same shall be disbursed to the LRs of deceased on

proper identification, by the trial Court.

With the aforesaid modification, the instant revision petition is disposed of in terms of the discussion made hereinabove.

17.02.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No