

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(238)

CRR -871-2019 (O&M)
Date of Decision: 29.03.2023

Kuldeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Ms. Alka Sharma, Advocate, for the petitioner.

Mr. V. K. Gupta, AAG, Punjab.

HARKESH MANUJA, J.(ORAL)

CRM No.571 of 2023

This is an application for filing of power of attorney on behalf of petitioner in the main petition.

Application is allowed, subject to all just exceptions.

Power of attorney filed on behalf of applicant/petitioner is taken on record.

CRM No.572 of 2023

This is an application for fixing some actual date of hearing in the main petition.

Application is allowed, subject to all just exceptions.

Main case is taken up on board for today itself.

CRR -871-2019

By way of present petition, petitioner prays for setting aside the judgment dated 11.03.2019 passed by the learned Sessions Judge, Sangrur, whereby, an appeal preferred by him against the judgment of conviction and order of sentence dated 18.12.2017 passed by Judicial Magistrate Ist Class,

Sunam, (hereinafter referred to as “JMIC, Sunam”) was dismissed/modified to an extent reproduced hereasunder:

Name	Under Section	Rigorous Imprisonment	Fine	In default of payment of fine to further undergo simple imprisonment
Kuldeep Singh	304-A IPC	One years	Rs.2000/-	15 days

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 after recording the statements of the witnesses, petitioner was arrested by the police and thus the findings recorded by both the Courts below implicating him in the case are illegal and perverse. Learned counsel further submits that during pendency of the appeal, complainant arrived at a compromise on 05.03.2018 with the petitioner; hence CRM-M-10918 of 2018 was filed before this Court but the same was withdrawn with liberty to move an application before the appellate Court, supported by copy of compromise between the parties and to seek appropriate remedy. On the point of quantum of sentence, learned counsel submits that the occurrence in question pertains to the year 2015 and thus, the petitioner has suffered the agony of criminal prosecution for the last about 8 years, besides incarceration for 3 months and 5 days. Learned counsel also submits that the compensation of Rs.11,78,000/- along with interested @ 7% per annum has already been paid to the wife of the deceased i.e. Charanjit Kaur in the claim petition filed at her instance. Furthermore, learned counsel 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

counsel relies upon order dated 23.07.2019 passed in **CRR No.1931 of 2010** titled as **Chander Bhan Vs. State of Haryana**, wherein, the petitioner who had actually undergone a sentence of 4 months and 7 days in a case under Section 279 and 304-A IPC, this Court reduced the sentence by imposing a fine of Rs.25,000/-. 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 are very categorical 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 heard 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 as the accident in question having caused due to rash and negligent driving of petitioner who came from opposite side and struck the motorcycle of the deceased has been sufficiently proved through the deposition of PW-5-Charanjit Kaur-wife of the deceased who happened to be the pillion rider. I am, however, of the considered view that the incident is of the year 2015, and petitioner has paid compensation of Rs.11,78,000/- to the claimants i.e. Charanjit Kaur and others and undergone actual sentence of 3 months 05 days out of total sentence of 2 year besides, and having also faced the agony of criminal prosecution for more than 08 years and the parties even having tried to settle their diversities on the point of accident as well as the

absence of production of any independent witness to the accident in question. 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 the ends of justice would be met if while maintaining the conviction of the petitioner, the substantive sentence of one years 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.2,000/- to Rs.1,50,000/-. It is made clear that in case of non-deposit of fine with the trial Court within a period of six weeks from the date of receipt 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 accordingly.

(HARKESH MANUJA)
JUDGE

29.03.2022
anil

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No