

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

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CRR-1005-2022 (O&M)

Date of Decision:16.01.2023

Parwinder Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ashish Verma, Advocate for the petitioner.

Mr. R.S. Khaira, DAG, Punjab.

DEEPAK GUPTA, J.

This revision is filed by petitioner being aggrieved by the judgment dated 03.03.2022 passed by learned Additional Sessions Judge, Fatehgarh Sahib in criminal appeal bearing CNR No.PB-FG-01-000427-2018 vide which the appeal filed by him, challenging the judgment of conviction and order of sentence dated 25.01.2018 of learned Additional Chief Judicial Magistrate, Fatehgarh Sahib in case FIR No.31 dated 16.02.2017 registered at Police Station Sirhind under Section 279 & 304-A of IPC, was dismissed.

As per prosecution case on 15.02.2017 complainant Lakhbir Singh was following the motorcycle of his nephew Kuldeep Singh @ Jharia bearing registration No.PB-23K-3884. As they reached near the grain market main service road and were about to cross the road towards Bhatti Chowk at about 02:20 p.m., truck bearing registration No.PB-11-BY-7174 being driven by the petitioner-accused in rash and negligent manner came at very high speed and struck against the motorcycle of Kuldeep Singh, who was

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seriously injured. He was taken to the hospital but was declared dead. On the statement of Lakhbir Singh, FIR was registered. After necessary investigation petitioner was put to trial on the charges under Section 279 & 304A of the IPC. After recording evidence produced by the prosecution, statement of the accused under Section 313 Cr.P.C. and hearing both the sides, learned Trial Magistrate recorded the conviction under Section 279 & 304A of the IPC and sentenced the petitioner to undergo rigorous imprisonment for a period of two years and to pay fine of 420,000/- under Section 304A of the IPC; and rigorous imprisonment for a period of 6 months and to pay fine of ₹1,000/- under Section 279 of the IPC. Default sentences were also announced. Both the substantive sentences were directed to run concurrently. Appeal filed by the petitioner was dismissed by learned Additional Sessions Judge, Fatehgarh Sahib vide impugned judgment dated 03.03.2022.

It is contended that both the Courts below fell in error and did not apply the mind to the fact that no independent witness was joined by the prosecution because as per PW-1 Lakhbir Singh, lot of people had gathered there; that no test identification parade of the petitioner was carried out; that PW-1 Lakhbir Singh admitted in cross-examination that he was at home on the date of accident; that there is delay of one day in lodging the FIR; that there is alteration in the documents prepared by the Investigating Officer; that mechanic who conducted mechanical examination was not examined and that negligence on the part of the petitioner was not proved.

Apart from all above, learned counsel for the petitioner submits that petitioner is in custody since 03.03.2022 i.e. for the last more than 10

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months and that he may be sentenced to imprisonment for the period already undergone by him.

I have considered submissions of both the sides and perused the record.

The conviction recorded by learned Trial Court is based on the evidence on record. Learned Additional Sessions Judge has also properly appreciated the evidence and there is no reason to disturb the finding of conviction as recorded by the Courts below.

However, it is not in dispute that petitioner is in custody since 03.03.2022 i.e. the day when his appeal was dismissed by learned Additional Sessions Judge and he was taken into custody. Thus custody period exceeds 10 months. In **State of Punjab V. Saurabh Bakshi, 2015(2) RCR (Criminal) 495**, while setting aside the order of the High Court reducing the sentence imposed upon the accused from one year to the period already undergone by him i.e. 24 days, it was held by Hon'ble Supreme Court as under:

“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.”

In the present case petitioner has already undergone sentence of more than 10 months. Accident had taken place way back in 2017 and thus petitioner has faced agony for the last about 6 years.

Having regard to all the facts and circumstances as above, though the conviction of the petitioner under Section 279 & 304A IPC is maintained but the order of sentence qua imprisonment of the petitioner is reduced to the period already undergone by him. Petitioner is directed to deposit the fine as imposed by the trial Court within a period of 15 days on receipt of the certified copy of this order. After the deposition of the said fine of ₹21,000/- (if not deposited earlier), the same shall be paid as compensation to the legal heirs of deceased on identification. It is made clear that in case of failure of the petitioner to deposit the said amount, the

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revision petition shall be deemed to have been dismissed.

The petitioner in custody is directed to be set at liberty forthwith, if not required in any other case. With this order, the revision stands disposed of.

January 16, 2023

Neetika Tuteja

**(DEEPAK GUPTA)
JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No