

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2797 of 2008 (O&M)
Date of decision: 24th February, 2023

Devinder Singh
... Petitioner

Versus

State of Punjab
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. R.P. Dhir, Advocate for the petitioner.
Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner has filed the instant revision petition to impugn the order dated 01.11.2008 passed by learned Addl. Sessions Judge, SAS Nagar, Mohali, vide which the appeal preferred by him against the judgment of conviction and order of sentence dated 11.06.2007 passed by learned Judicial Magistrate 1st Class, SAS Nagar, Mohali was dismissed.

Vide judgment dated 11.06.2007, learned Judicial Magistrate 1st Class, SAS Nagar, Mohali, convicted and sentenced the petitioner as follows:

Offence	Sentence	Fine	Sentence in default of payment of fine
u/s 304-A IPC	RI for 2 years	₹ 500/-	RI for 7 days
u/s 279 IPC	RI for 6 months	₹ 500/-	RI for 7 days

Both the sentences were ordered to run concurrently.

The case as set up by the prosecution may be noticed as thus:

The FIR in question was registered on the statement made by Hardeep Singh, who alleged that his brother Kuldeep Singh along with his friend Palwinder Singh was traveling on a scooter in the area of village Raipur Kalan when a Tata Sumo bearing registration No.HR-01E-7566 came in a rash and negligent manner being driven by petitioner Devinder Singh and rammed into the scooter. Due to the serious injuries sustained, both of them died at the spot and driver of the offending vehicle ran away.

The prosecution in support of its case examined as many as 8 witnesses including the complainant. On the basis of the evidence led and other material on record, the trial Court convicted the accused-petitioner under Sections 279/304-A IPC vide judgment dated 11.06.2007. The appeal preferred to impugn the aforesaid judgment was also dismissed by the Appellate Court vide judgment dated 01.11.2008 and hence, the present revision petition.

Learned counsel for the petitioner has fairly submitted that in view of the concurrent findings of fact recorded by both the Courts below, he would not press the instant revision petition on merits and would instead restrict his prayer qua the quantum of sentence only.

Learned counsel submits that the accident in question pertains to the year 2001. The petitioner has suffered the agony of protracted criminal proceedings ever since then and it was a matter of record that during the preceding 22 years, he had not been involved in any other criminal case much less a case of similar nature. Further, in the preceding last so many years, the petitioner has been fastened with many responsibilities. Learned counsel has made a vehement prayer that a lenient view be taken in the matter of sentence imposed upon the petitioner and his sentence be reduced to the period already undergone by him else the petitioner, who is now in an advance stage of life, and his family would be gravely affected. In support of his submissions, learned counsel has placed reliance on the judgment of this Court in '*Bachna Ram vs. State of Haryana*', 2005 (3) RCR (Crl.) 966.

Learned State counsel while opposing the prayer made by counsel opposite submits that due to the accident in question, two persons lost their lives, hence, the petitioner did not deserve any leniency. A prayer, therefore, has been made for dismissal of the appeal.

Heard learned counsel for the parties and perused the impugned judgments passed by the courts below. However, this Court does not find any illegality much less perversity in the concurrent findings recorded by both the Courts below.

Coming to the prayer of the learned counsel for the petitioner with respect to quantum of sentence, it would be apposite to point out here that the accident in question occurred in the month of October 2001 and ever since then the petitioner has faced long and protracted criminal proceedings for more than 22 years. It has not been disputed by the State counsel that after the accident in question, the petitioner had not been involved in any other criminal case and as conceded by the State counsel, he has not misused the concession of bail granted to him during all these preceding years.

In the facts and circumstances, this Court does not deem it appropriate to send the petitioner behind bars at this juncture when admittedly he is fastened with many responsibilities. No doubt, the accident in question took away two lives, however, at the same time, it cannot be overlooked that the ultimate goal of punishment in a modern civilized society is to attempt reformation of the offender. It may not always be necessary in each and every case to incarcerate the offender where he/she has had an opportunity to repent for his/her wrongs. Forgiveness would ensure a better remedy than imprisonment, especially in cases like the one in hand where the accident in question could not be said to have been an intentional act.

Hon'ble Supreme Court in '***Ved Prakash vs. State of Haryana***', 1981(1) SCC 447 has also observed that "*it is the duty of the sentencing Court to be activist enough to collect such facts as have*

a bearing on punishment with a rehabilitating slant.” It was further observed by the Apex Court “even if the Bar does not help, the Bench must fulfill the humanizing mission of sentencing implicit in such enactments as the Probation of Offenders Act.

Further, Hon'ble Supreme Court in ***Manjappa vs. State of Karnataka, 2007(3) RCR (Crl.) 216*** while considering the scope of Section 361 Cr.PC and the provisions of Probation of Offenders Act held that such a relief should be granted where the offence was not of very grave nature and in some cases where *mens rea* was absent as in cases of rash and negligent driving under Section 279 r/w Section 304-A IPC.

Hon'ble Supreme Court in ***State through CBI Anti Corruption Branch, Chandigarh vs. Sanjiv Bhalla and another (Crl. Appeal No.1338-1339/2014) decided on 04.07.2014*** while referring to *Manjappa's case* (supra) observed that the Court desired to convey that an offence punishable under Section 279/304-A IPC being a result of an accident was, therefore, not a grave as there was an absence of *mens rea*.

Keeping in view the facts and circumstances of the case as well as the submissions made by learned counsel for the petitioner, this Court is of the considered view that ends of justice would be met, if while maintaining the conviction of the petitioner, his substantive

sentence of two years is reduced to the period already undergone by him in the present case.

However, fine imposed on the petitioner is enhanced from ₹ 500/- to ₹ 20,000/- under Sections 304-A, 279 IPC. It is made clear that in case of non-deposit of fine with the trial/successor Court within a period of two months from the date of this order, the benefit of reduction of sentence shall not accrue to the petitioner and he will be required to undergo the remaining part of the sentence awarded to him. On deposit of fine, the enhanced amount of fine shall be disbursed to the LRs of the deceased on proper identification.

With these modifications, the instant revision petition is disposed of.

(MANJARI NEHRU KAUL)
JUDGE

February 24, 2023
rps

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