

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

321

CRR-264-2009 (O&M)
Date of decision: 17.08.2023

Harvinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Inderpal Singh and Mr. Ramandeep Singh, Advocates
for the petitioner

Ms. Himani Arora, AAG Punjab

AMAN CHAUDHARY, J.

1. The present revision petition has been filed against the judgment dated 20.01.2009 passed by the learned Sessions Judge, Ropar, affirming the judgment of conviction and order of sentence dated 20.02.2008, rendered by the learned Sub Divisional Judicial Magistrate, Kharar vide which the petitioner has been convicted and sentenced as under:

Offence U/s	Imprisonment	Fine	Default sentence
304-A IPC	RI for 1 year	—	—
279 IPC	—	Rs.1,000/-	SI for 2 months

2. The facts, which are necessary for adjudication of the present case are that when on 30.08.2001, complainant-Gian Singh with his wife Nirmal Kaur were returning to their house on scooter, near Village Desu Majra, a Punjab Roadways bus, bearing No.PB-12C-9025, being driven in a rash and negligent

manner, coming from the behind, hit them, as a result of which, they fell down on the road and sustained several injuries on their body. Nirmal Kaur had died on the way to the hospital. FIR No.158 dated 20.02.2008, under Sections 279, 337 and 304-A IPC was registered against the accused at Police Station City Kharar.

3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused-petitioner. On finding a prima facie case, charges under Sections 279, 337 and 304-A of the IPC were framed against him, to which he pleaded not guilty and claimed trial.

4. In order to bring home the guilt of the accused, the prosecution examined as many as 10 witnesses. On closure of the prosecution evidence, statement of the accused-petitioner was recorded under Section 313 Cr.P.C. He denied all the incriminating circumstances that appeared against him in the prosecution case while pleading false implication by the police. He examined one Sewa Singh as DW1 in his defence evidence.

5. On scrutinizing the evidence on record, the trial Court convicted and sentenced the accused-petitioner as noticed above..

6. Aggrieved accused-petitioner has preferred an appeal, which was dismissed by the learned Sessions Judge, Ropar vide impugned judgment dated 20.01.2009.

7. Learned counsel for the petitioner, at the very outset, submits that he does not wish to challenge the judgment of conviction and prays for reducing the sentence awarded to the petitioner on account of the facts, that the petitioner is 57 years old; two marriageable children; sole breadwinner of his family; has undergone 16 days out of the total sentence of 1 year awarded to him; not involved

in any other case and have been facing the agony of protracted trial for the last 22 years.

8. On the other hand, learned State counsel submits that both the Court below after appreciating the evidence led by the prosecution, have rightly convicted and sentenced the petitioner, therefore, prays for the dismissal of the present revision petition.

9. Heard the learned counsel and perused the file.

10. Though, the petitioner has not challenged the judgment of conviction, but this Court still deems it appropriate to examine the same. The deposition of PW-1 Gian Singh, who was the husband of the deceased Nirmal Kaur and the injured as well as eye witness, had specifically narrated the incident and also medical evidence i.e. PW2/A proved by Dr.Balwinder Singh, as per which the cause of death occurred due to head injury. Thus, the trial Court has rightly convicted the petitioner and later on it was affirmed by the Appellate Court, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, the conviction of the petitioner is upheld.

11. Regarding the prayer of the learned counsel for the petitioner that in view of the aforesaid mitigating circumstances, the sentence of the petitioner may be reduced to the period already undergone, it is apposite to make a reference to the judgment of **K. Jagadish v. State of Karnataka**, 2018 SCC OnLine SC 2489, where the appellant was convicted under Sections 279, 337 and 304 A IPC and Section 146 read with 196 of the Motor Vehicle Act, Hon'ble The Supreme Court reduced his sentence of simple imprisonment of 6 months and 3 months respectively to the period already undergone i.e. 2 weeks.

12. In **Manish Jalan vs. State of Karnataka**, 2008 (8) SCC 225, wherein the accused was convicted under Section-304-A and sentenced to undergo rigorous imprisonment of 1 year, Hon'ble The Supreme Court held that, "we are of the view that a lenient view can be taken in the matter and the sentence of imprisonment can be reduced. We are of the opinion that the ends of justice would be met if the sentence of imprisonment is reduced to the period already undergone."

13. This Court in **Pardeep vs. State of Haryana**, CRR-1262-2017 decided on 21 July 2023, where the accused was convicted under Sections 279 and 304-A IPC, reduced the sentence to already undergone, i.e. 2 months and 29 days, as the petitioner had faced the agony of trial for almost 4 years. Similarly, in **Nafe Singh vs. State of Haryana**, CRR-239-2023 decided on 11.05.2023, reduced to the period undergone by him in a conviction under Sections 279, 337 and 304-A.

14. It is a settled proposition of law that each case is to be decided on its own peculiar facts and circumstances.

15. The object of criminal justice system is to reform the offenders and to make them see and follow the right path. However, the ancient penological approach was of custodial measure to curb crime. A balanced approach keeping in view the interests of the victim and accused and their families, release on admonition, probation etc is the way forward.

16. Reverting to the facts of the present case as regards the prayer made on behalf of the petitioner is concerned, this Court considering the judgments referred to above and the mitigating circumstances, particularly that the petitioner is a first time offender; sole breadwinner of his family; facing the mental agony of trial for the last about 22 years; prior to the alleged offence and after release on bail, no

offence has been committed by him, finds that the ends of justice would be adequately met if the sentence of the petitioner is ordered to be reduced to the period already undergone by him.

17. Accordingly, while upholding the conviction of the appellant, his sentence is ordered to be reduced to the period already undergone by him. However, the fine shall remain intact.

18. With the above modification in the order of sentence dated 20.02.2008 passed by Sub Divisional Judicial Magistrate, Kharar, as noted above, the criminal appeal is partly allowed.

(AMAN CHAUDHARY)
JUDGE

August 17, 2023
M.Kamra

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