

CRR-303-2009
Decided on : 02.03.2023

..... Petitioner

State of Punjab

..... Respondent

Present : Mr. Deepak Chaudhary, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

Vide judgment dated 27.02.2007, learned JMIC, Ist Class,
Abohar convicted and sentenced the petitioner as under:

<i>Offence</i>	<i>Sentence</i>	<i>Fine</i>	<i>Sentence in default of payment of fine</i>
u/s 279 IPC	RI for six months	Rs.1000/-	RI for 1½ months
u/s 304-A	RI for two years	Rs.2,000/-	RI for three months

Learned counsel for the petitioner, at the outset, has fairly submitted that in view of the 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 *inter alia* submits that the occurrence in question pertains to the year 2001 and the petitioner, who is now 67 years of age, has thus suffered the agony of trial for the last 22 years. Still further, during the preceding 22 years, the petitioner had not been involved in any other criminal case and has been leading the life of a disciplined and peace loving citizen. Further more, in the preceding last so many years, the petitioner has been fastened with many responsibilities. Learned counsel has thus, 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.

Learned State counsel while opposing the prayer made by counsel opposite submits that due to the accident in question, one person lost his life, hence the petitioner did not deserve any leniency. Learned State counsel further submits that it remained unproved during trial that the petitioner was not the driver of the offending vehicle at the time of accident in question. A prayer therefore, has been made for dismissal of the petition.

Heard learned counsel for the parties and perused the relevant material available on record.

This Court does not find any illegality much less perversity in the concurrent findings recorded by both the Courts below, which are upheld.

Coming to the prayer made by 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 on 05.07.2001 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 has been fastened with many responsibilities. No doubt, the accident in question took one life, however, at the same time, 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 specially 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.

The Coordinate Benches of this Court in ***Vikaram Singh vs. State of Haryana, 2003(3) RCR (Crl.) 191*** and ***Jai Pal vs. State of Haryana, 1996(3) RCR (Crl.) 282*** were also of the opinion that after having faced criminal proceedings for almost 20 years, no useful purpose would be served by sending the accused back to jail, more so, when he was not involved in any other criminal case.

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 Rs.2000/- to Rs.10,000/- under Section 304-A 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 stands disposed of.

02.03.2023
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(MANJARI NEHRU KAUL)
JUDGE

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