

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

CRR-1331-2018 (O & M)
Date of Decision: 31.01.2023

Jagdeep Singh

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Divyadeep Walia, Advocate,
for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

Mr. Shubham Singh, Advocate,
for Mr. Deepak Aggarwal, Advocate, for the complainant.

JASJIT SINGH BEDI, J.

CRM-4347-2023

The application for placing on record a compromise dated 24.01.2023 (Annexure P-1), is allowed as prayed. The same is taken on record.

CRR-1331-2019

The present revision petition has been filed against the judgment dated 14.05.2019 passed by the Additional Sessions Judge, Bathinda as well as the judgment dated 06.09.2016 passed by the Sub Divisional Judicial Magistrate, Talwandi Sabo, whereby the petitioner was convicted in FIR No.1987 dated 21.09.2013 under Section 304-A and 279 IPC at Police Station Talwandi Sabo.

2. The prosecution story in brief is that on 21.09.2013, ASI Rajwinder Singh alongwith HC Gian Chand and PHG Gurmej Singh were present at police station when MHC Jagroop Singh informed the ASI that an accident has taken place near village Jaga Ram Tirath and the dead body had been taken to the hospital. Action was to be taken. On this, ASI Rajwinder Singh alongwith other police officials reached Civil Hospital, Talwandi Sabo, where Gurcharan Singh @ Bhola son of Beant Singh got recorded his statement that he was an agriculturist. They were two brothers. He was the elder one and the younger one was Baldev Singh @ Nura who was also an agriculturist. On 21.09.2013, his brother-Baldev Singh @ Nura had gone for domestic work on his motor cycle bearing No.PB-44A-9850, make Hero Honda and was coming to Talwandi Sabo via Behniwal. He (complainant) alongwith his cousin Angrej Singh was also coming to Talwandi Sabo on the other motor cycle behind Baldev Singh. At about 10.30 a.m, a car came from the side of Talwandi Sabo, which was being driven by the driver in a rash and negligent manner. The car struck the motor cycle of his brother, who fell down. They tried to stop the driver of the car but he sped away. However, the number of the car was noted down by him and was HR-29-0123. He found his brother dead at the spot due to the accident. The motor cycle of his brother also got damaged. The accident had occurred due to the rash and negligent driving of the driver who has caused the death of his brother. Action was sought to be taken.

On the aforementioned allegations, the FIR was registered, investigation conducted, the statements of the witnesses recorded, the spot inspected and the motor cycle of Baldev Singh (deceased) was taken into possession. The site plan was prepared and post-mortem of the dead body

the car of the accused was taken into police possession. The vehicles were got mechanically checked. After completion of the investigation, a challan was submitted against the accused-petitioner. ‘

Pursuant thereto, a prima facie case under Sections 279, 304-A, 427 IPC was made out and the accused was charged accordingly.

3. In order to prove its case, the prosecution had examined Sukhcharan Singh complainant as PW-1, Angrej Singh another eye witness as PW-2, HC Satpal Singh Mechanic PW-3, Dr. Avtar Singh, Medical Officer as PW-4, ASI Rajwinder Singh I.O. as PW-5. Thereafter, the evidence of the prosecution was closed.

4. After the closure of the prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded, in which the incriminating evidence appearing against him was put to him which he denied and pleaded innocence and false implication.

5. In defence, the accused examined Hans Gir as DW-1 and closed his defence evidence.

6. Based on the evidence led, the petitioner came to be convicted and sentenced vide judgment and order of sentence dated 06.09.2016 passed by the Court of Sub Divisional Judicial Magistrate, Talwandi Sabo as under:-

Name of convict	Section	Sentence	Fine imposed	In default of payment
Jagdeep Saini	304-A IPC	(RI) 02 years	Rs.500/-	(SI) 15 days
	279 IPC	(RI) 06 months	--	--

7. Aggrieved by the judgment and order of sentence dated 06.09.2016 passed by the Sub Divisional Judicial Magistrate, Talwandi Sabo, the petitioner preferred an appeal, where more or less similar grounds were raised. After examining the evidence and the record, the appeal was

partly allowed by the Court of Additional Sessions Judge, Bathinda vide

judgment dated 14.05.2019. However, while allowing the appeal partly, an amendment was carried out in the order of sentence whereby the rigorous imprisonment of 02 years awarded by the Sub Divisional Judicial Magistrate, Talwandi Sabo, for commission of an offence under Section 304-A IPC was reduced to rigorous imprisonment of 01 year though the sentence awarded for commission of offence under Section 279-IPC was upheld.

The aforementioned judgments are under challenge in the present revision petition.

8. During the course of these proceedings, the parties have arrived at a compromise. The same is placed on record as Annexure P-1. As per the said compromise, a sum of Rs.9,50,000/- has been paid to the LRs of the deceased-Baldev Singh.

9. The learned counsel for the petitioner contends that PW-1 Sukhcharan Singh and PW-2 Angrej Singh being highly interested witnesses could not be believed and their presence at the spot was doubtful. The identification of the petitioner was not proved beyond reasonable doubt as he has not been named in the FIR. In fact, the motor cycle of the deceased-Baldev Singh was involved in an accident with the tractor-trolley driven by one Satpal Singh @ Satti. This person was also interrogated by the police during investigation as he had got removed the dead body to the hospital. However, subsequently, the present petitioner was substituted as an accused. He contends that the defence of the petitioner who examined DW-1 Hans Gir has not been considered in its proper perspective. He lastly contends that in view of the fact that a settlement has been arrived at between the parties and the occurrence pertains to the year, 2013, the sentence of the petitioner be reduced to the period already undergone by him.

10. The learned counsel for the State while placing on record the custody certificate dated 11.01.2023 submits that the petitioner has undergone a total custody of 17 days. He, while supporting the impugned judgments contends that the grounds raised by the petitioner have been dealt with comprehensively by the Courts below. The offence is well-established and as such no case for leniency is made out. He, however, admits the fact that a compromise has been arrived at between the parties, pursuant to which, a sum of Rs.9,50,000/- stands paid to the LRs of the deceased-Baldev Singh.

11. The learned counsel for the LRs of the deceased admits the fact that a sum of Rs.9,50,000/- has been received by the LRs. He submits that the LRs have no objection if the sentence of the petitioner-accused is reduced to the period already undergone by him.

12. I have heard the learned counsel for the parties.

13. The present case has been established beyond reasonable doubt. The deposition of the witnesses cannot be doubted. The identity of the petitioner is well-established and the petitioner has not been able to point out any enmity between the investigating officer and him or his family members.

14. In view of the aforementioned discussion, I find no reason to interfere with the well-reasoned judgments of the Trial Court and the Lower Appellate Court. Hence this revision petition is hereby dismissed.

15. So far as the imposition of sentence is concerned, the Hon'ble Supreme Court in '**Puttaswamy versus State of Karnataka & Another, 2009(1) RCR (Criminal) 501**', held as under:-

“9. What emerges from all these decisions is that even if an offence is not compoundable within the scope of Section 320 of

Code of Criminal Procedure the Court may, in view of the compromise arrived at between the parties, reduce the sentence imposed while maintaining the conviction. In the present case, the appellant has been convicted under Sections 279 and 304A of the Indian Penal Code and has been sentenced to undergo simple imprisonment for a period of 6 months and to pay a fine of Rs. 2,000/-. The sentence as far as conviction under Section 279 Indian Penal Code is concerned has been set aside by the High Court. What remains after the judgment of the High Court is the conviction under sections 279 and 304A Indian Penal Code wherein the appellant was sentenced to undergo six months simple imprisonment along with a fine of Rs. 2,000/-. In our view, this is one of those cases where instead of confining the appellant in prison, the interest of justice will be better served if he is made to compensate the family of the deceased on account of the loss suffered by them.

10. Accordingly, while maintaining the appellant's conviction under sections 279 and 304A Indian Penal Code, notwithstanding the agreement arrived at between the parties, we increase the amount of fine from Rs. 2,000/- to Rs. 20,000/- to be paid by the appellant to the parents of the deceased and reduce the sentence to the period already undergone, subject to payment of the fine. The aforesaid amount is to be deposited by the appellant in the Trial Court within three weeks from date, and on such deposit, the said amount shall be made over to the parents of the deceased and the appellant shall be released forthwith. In default of such deposit, this order shall remain in abeyance for a period of four weeks and if still no deposit is made within the said period the appeal will stand dismissed”.

The said judgment has been followed by this Court in the case

titled as ***‘Balwinder Singh versus State of Punjab, (CRR-1384-2014 decided on 19.01.2016).***

16. Coming back to the facts of the present case, a sum of Rs.9,50,000/- has been paid by the petitioner to the LR's of the deceased- Baldev Singh @ Nura as is borne out from the compromise dated 24.01.2023 (Annexure P-1). The said fact has been accepted by the learned counsel for the complainant. The occurrence pertains to the year 2013 and almost 10 years have elapsed since then. As such, while upholding the judgment of conviction, I modify the sentence and reduce it to the period (17 days) already undergone by him. The quantum of fine and sentence in default shall however remain intact.

(JASJIT SINGH BEDI)
JUDGE

31.01.2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No