

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(233)

CRR -4953-2015 (O&M)
Date of Decision: 28.03.2023

Hardeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vipin Mahajan Advocate, for the petitioners.
Mr. V. K. Gupta, AAG, Punjab.

HARKESH MANUJA, J.(ORAL)

CRM No.11571 of 2023

This is an application for placing on record photocopies/certified copies of Annexure P-3 to Annexure P-9 and exemption from filing true typed copies of the same.

Application is allowed, subject to all just exceptions.

Documents Annexures P-3 to P-9 are taken on record.

CRR -4953-2015

By way of present petition, petitioner prays for setting aside the judgment dated 08.12.2015 passed by Additional Sessions Judge, Gurdaspur, whereby, an appeal preferred by him against the judgment of conviction and order of sentence dated 10.10.2014 passed by Judicial Magistrate Ist Class, Gurdaspur, (hereinafter referred to as “JMIC, Gurdaspur”) was dismissed.

Vide judgment dated 07.05.2023, learned JMIC, Ludhiana, convicted and sentenced the petitioner as under:

Name	Under Section	Rigorous Imprisonment	Fine	In default of payment of fine to further undergo rigorous

				imprisonment
Hardeep Singh	304-A IPC	Two years	Rs.500/-	One month
	279 IPC	6 months	Rs.1000/-	One month

Aggrieved against the same, the petitioner filed Criminal Appeal, however, the same was dismissed vide order dated 08.12.2015, passed by the Additional Sessions Judge, Gurdaspur, upholding the judgment passed by the JMIC, Gurdaspur.

Challenging the same, learned counsel for the petitioner submits that the petitioner was never arrested from the spot & implicated later on by the police. He also submits that the allegations against him were never proved as one of the eye witnesses namely Manjit Singh PW-5 did not support the prosecution case whereas the other one i.e. PW-3 Ranjit Singh was not able to prove his presence at the spot and thus, the findings recorded by both the Courts below were illegal and perverse. On the point of quantum of sentence, learned counsel submits that the occurrence in question pertains to the year 2010 and thus, the petitioner has suffered the agony of criminal prosecution for the last about 13 years, besides incarceration for 4 months and 19 days. Learned counsel also submits that the compensation of Rs.4,42,000/- each has already been paid to the two LRs of the deceased in the claim petition filed on their behalf against the petitioner. Furthermore, learned counsel submits that the petitioner is a law abiding citizen and not involved in any other criminal case, thus, a lenient view may be taken and quantum of sentence awarded to the petitioner be reduced to the period already undergone as no useful purpose would be served by sending him behind the bars. In support of his arguments, learned counsel relies upon order dated 23.07.2019 passed in **CRR No.1931 of 2010** titled as **Chander Bhan Vs. State of Haryana**, wherein, the

case under Section 279 and 304-A IPC, this Court reduced his the sentence by imposing a fine of Rs.25,000/-. Reliance has also been placed upon a judgment of this Court in **CRR-4830-2016** decided on **08.03.2017** titled as **Balwinder Singh alias Binder Vs. State of Punjab**, in which case also, the sentence was reduced to 4 months in a case of conviction under Section 279 and 304-A IPC where, rigorous imprisonment awarded was for 2 years.

On the other hand, learned State counsel vehemently opposes the prayer made at the instance of learned counsel for the petitioner. Learned counsel submits that decision by both the Courts below is based upon proper appreciation of evidence and as such, the sentence awarded to the petitioner is in proportion to the offence committed by him, therefore, no leniency is warranted in the facts of the present case.

I have heard learned counsel for the parties and perused the judgments passed by the Courts below and do not find any illegality or perversity in the same as the accident in question having been caused due to rash and negligent driving of petitioner who came from opposite side and struck the motorcycle of the deceased has been sufficiently proved though the deposition of eye witnesses namely Ranjit Singh PW-3 besides the investigating officer even. I am, however, of the considered view that the incident is of the year 2010, and the dependents have got compensation of Rs.4.42 Lakhs each besides the petitioner has undergone actual sentence of 4 months 19 days out of total sentence of 2 year in addition to his having faced the agony of criminal prosecution for more than 13 years now. Thus, keeping in view these facts and circumstances as well as the judgments relied upon by learned counsel for the petitioner, in my limited revisional jurisdiction without going through the aspect of PW-5 i.e. one of the other eye-witness having been declared hostile, I am of the view that ends of justice would be met if

while maintaining the conviction of the petitioner, the substantive sentence of two years awarded to him is reduced to the period of sentence already undergone by him in the present case.

However, fine imposed on the petitioner is enhanced from Rs.10,000/- to Rs.50,000/-. It is made clear that in case of non-deposit of fine with the trial Court within a period of two months from the date of this order, benefit of reduction of sentence shall not accrue to the petitioner and he will be required to undergo remaining part of his sentence. However, on deposit of fine, the same shall be disbursed to the LRs of deceased on proper identification, by the trial Court.

With the aforesaid modification, the instant revision petition is disposed of accordingly.

(HARKESH MANUJA)
JUDGE

28.03.2022
anil

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