

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.4693 of 2016
Date of decision: 24th February, 2023

Karamvir
... Petitioner

Versus

State of Haryana
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jagdeep S. Rana, Advocate for the petitioner.
Mr. Chetan Sharma, Assistant Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner has filed the instant revision petition to impugn the order dated 08.11.2016 passed by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri, vide which the appeal preferred by him against the judgment of conviction and order of sentence dated 27.08.2013 passed by learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri was dismissed.

Vide judgment dated 08.11.2016, learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, though maintained the conviction of the petitioner, but modified the sentence as under:

Offence	Sentence	Fine	Sentence in default of payment of fine
u/s 279 IPC	RI for 6 months	₹ 500/-	SI for 1 month
u/s 337 IPC	RI for 6 months	₹ 200/-	SI for 1 month
u/s 338 IPC	RI from 2 years	₹ 1000/-	SI for 1 month

	modified to 1 year		
--	-----------------------	--	--

All the sentences were ordered to run concurrently.

The case as set up by the prosecution is that the accused petitioner on account of his rash and negligent driving of offending vehicle Tata Ace bearing regn. No.HR-58-9157, caused simple as well as grievous injuries to the complainant and also caused death of Hardas. On the basis of statement made by Rishi Pal, the FIR in question was registered.

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 279/337/338 IPC vide judgment dated 27.08.2013. The accused petitioner was however acquitted of the offence under Section 304A IPC. The appeal preferred to impugn the aforesaid judgment was dismissed by the Appellate Court vide judgment dated 08.11.2016 and hence, the present revision petition.

Learned counsel for the petitioner, at the outset, submits that he would not challenge the findings of conviction recorded by the trial Court on merits and would instead confine his prayer only on the quantum of sentence.

Learned counsel submits that the accident in question took place more than 13 years back on 16.08.2009. The petitioner has suffered the agony of protracted criminal proceedings ever since then

and it was a matter of record that during the preceding 13 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, one person Rishipal sustained grievous injuries, 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

August 2009 and ever since then the petitioner has faced long and protracted criminal proceedings for more than 13 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 away one life, 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 one year is reduced to the period already undergone by him in the present case.

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