IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(228) **CRR No.3595 of 2017**
Date of Decision: 20.03.2023

Baljinder Singh …Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. G. S. Bal, Advocate, for the petitioners.

Mr. V. K. Gupta, AAG, Punjab.

****

HARKESH MANUJA, J.(ORAL)

By way of present petition filed under Sections 401, 397 read with Section 482 of the Code of Criminal Procedure, 1973, petitioner prays for setting aside the judgment dated 19.04.2017 passed by Additional Sessions Judge, Gurdaspur, whereby, the appeal preferred by him against the judgment of conviction and order of sentence dated 07.09.2016 passed by Judicial Magistrate Ist Class, Gurdaspur, (hereinafter referred to as "JMIC, Gurdaspur") was dismissed.

Vide judgment dated 29.08.2005, 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**
Baljinder Singh	**304-A**	**Two years**	**Rs.10,000/-**	**One month**

Aggrieved against the same, the petitioner filed Criminal Appeal, however, the same was dismissed vide order dated 19.04.2017, passed by the Additional Sessions Judge, Gurdaspur, upholding the judgment passed by the

ANIL KUMAR
2023.03.24 10:21
I attest to the accuracy and
integrity of this document

JMIC, Gurdaspur.

Challenging the same, learned counsel for the petitioner submits that the petitioner was never arrested at the spot & was implicated later on by the police. He also submits that even as per the statements made by the alleged eye witnesses, the name of petitioner was disclosed to them by the police and thus the findings recorded by both the Courts below are 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 10 months and 2 days. Learned counsel also submits that the compensation of Rs.4,76,000/- 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 is 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 petitioner who had actually undergone a sentence of 4 months and 7 days in a 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

ANIL KUMAR
2023.03.24 10:21
I attest to the accuracy and
integrity of this document

prayer made at the instance of learned counsel for the petitioner. Learned counsel submits that decision by both the Courts below is very categoric 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 caused due to negligent act of petitioner who wrongly parked the trolla on the road has been sufficiently proved though the deposition of eye witnesses. I am, however, of the considered view that the incident is of the year 2010, and petitioner has paid compensation of Rs.4.76 Lakhs each to the two claimants and undergone actual sentence of 10 months 2 days out of total sentence of 2 year besides, and has also 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, 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 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.

ANIL KUMAR
2023.03.24 10:21
I attest to the accuracy and
integrity of this document

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

(HARKESH MANUJA)
JUDGE

20.03.2022
anil

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

ANIL KUMAR
2023.03.24 10:21
I attest to the accuracy and
integrity of this document