

107IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRR-1695-2018 (O&M)
Date of Decision:06.09.2023

Nazme Alam...Petitioner
Vs.
State of Punjab and Anr....Respondents

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present: Mr.A.S Barnala, Advocate
for the petitioner.

Mr. Mohinder Singh Joshi, Additional Advocate General, Punjab.

Mr. Neeraj Yadav, Advocate
for respondent No.2.

N.S.Shekhawat J.

1. The petitioner had filed the present petition against the impugned judgment dated 26.03.2018, passed by the Court of Additional Sessions Judge, Barnala and the impugned judgment of conviction and order of sentence dated 09.02.2016, passed by the Court of Chief Judicial Magistrate, Barnala, whereby the petitioner was ordered to be convicted for the offence punishable under Sections 279 and 304-A of IPC and were sentenced as under:-

Under Section 279 IPC	Rigorous imprisonment for a period of six months
Under Section 304-A IPC	Rigorous imprisonment for a period of two years and to pay a fine of Rs.500/-,along with default stipulation

2. At the very outset, learned counsel for the petitioner submits that he does not wish to challenge the judgments of conviction of petitioner by both the Courts, however, a lenient view may be taken, while awarding the sentence

to the present petitioner. Even though, the petitioner has not laid any challenge to the impugned judgments, still this Court has examined the legality of the impugned judgments passed by both the Courts.

3. As per the case of the prosecution, the FIR in the present case was registered on the basis of the statement made by Pankaj Goyal @ Monti son of Pardeep Kumar, as per him, at about 11:00 AM on 26.12.2008, he along with his father Pardeep Kumar and mother Renu Bala were going to Bhatinda in their car make Maruti Zen, bearing registration No.PB-10V-7662, which was being driven by their driver Binder Kumar and when they reached on the road leading from Barnala to Handiya, then at about 10:00 AM, a truck/trolla bearing registration No. PB-06G-2596, being driven rashly and negligently at a very high speed came from Handiya side and its driver brought the vehicle on the wrong side and hit their Maruti Zen car. The truck stopped for a while and its driver drove the truck a little back. Many people had gathered at the spot and the occupants of the car sustained multiple injuries. The driver of the truck sped away from the spot, on the pretext of parking the truck on one side. The injured were shifted to the Civil Hospital, Barnala in an ambulance and keeping in view their serious condition, they were referred to Dayanand Medical College & Hospital, Ludhiana for treatment. In the morning of 28.12.2008, Renu Bala succumbed to her injuries. Later on, the complainant, came to know from his own sources that Nazme Alam, accused was driving the offending vehicle. With these broad allegations, the FIR in the present case was registered against the present petitioner.

4. After the presentation of the challan, under Section 173 (2) Cr.P.C, the petitioner was ordered to be charge-sheeted for the offences punishable

under Sections 304-A, 279,337,338,427 of the IPC. To prove the charge, the prosecution examined six witnesses and the driving license of the accused Ex. PX and RC of the offending vehicle Ex.PY were tendered into prosecution evidence by the prosecution.

5. The prosecution examined complainant/eye witness Pankaj Goyal as PW-1. Pardeep Kumar, injured as PW-2, Dr. Surinder Kumar Gogna, Medical Officer, Civil Hospital, Ludhiana, who conducted post mortem examination as PW3, Head Constable Jaswinder Singh as PW4, Usha Rani an official from the office of District Transport Officer, Ludhiana as PW-5 and Sub Inspector Harjinder Singh, Investigating Officer as PW-6.

6. After the completion of the prosecution evidence, the statement of accused under Section 313 Cr.PC was recorded, whereby the incriminating evidence was put to him. However, he pleaded his false implication in the present case.

7. In the present case, the FIR was registered on the basis of the statement made by PW-1 Pankaj Goyal @ Monti and he supported the case of the prosecution as mentioned in the FIR. He was not only the complainant, but was also injured in the present case and his injuries were proved on record. Similarly, his testimony was duly corroborated by PW-2, Pardeep Kumar. The prosecution further examined PW-3, Dr. Surinder Kumar Gogna, Medical Officer, Civil Hospital, Ludhiana, who proved the post mortem report Ex. PW3/A of Smt. Renu Bala and also stated that the death of Renu Bala had occurred on account of the injuries received by her in the occurrence. The prosecution further examined PW-4 Head Constable Jaswinder Singh, who proved on record the photographs Ex.P-1 to Ex. P-4 along with negatives

Ex.P-5 and the recovery memo Ex. PW4/A. The prosecution further examined PW-5 Usha Rani, Junior Assistant from the office of District Transport Officer, Ludhiana, who proved the registration certificate of Maruti Zen car Ex.PW5/A. Sub Inspector Harjinder Singh, Investigating Officer appeared as PW-6, who proved the investigation conducted by him. He stated that on 01.01.2009 accused Nazme Alam along with his driving license along with Truck/Trolla bearing registration No.PB-06G-2596 along with its registration certificate was produced before him by Jaswant Singh and he took the driving license of Nazme Alam and RC of Truck/Trolla into police possession vide memo Ex. PW6/K.

8. From a perusal of the prosecution evidence, it stood proved that the prosecution was initiated on the basis of the statement made by PW-1 Pankaj Goyal @ Monti and his statement was duly corroborated by PW-2 Pardeep Kumar. Similarly, the post mortem report was duly exhibited by PW-3 Dr. Surinder Kumar Gogna, Medical Officer, Civil Hospital, Ludhiana, who clearly stated that death of Renu Bala had occurred due to the injuries suffered by her in the accident. The evidence of the said witnesses was further strengthened by the testimony of PW-6 Sub Inspector Harjinder Singh, who had proved the investigation in the present case. All the abovesaid witnesses were cross-examined at length and the defence could not shatter their testimonies in any manner. Even otherwise I have gone through the findings recorded by both the lower Courts and found that there was no serious illegality, infirmity or perversity in the impugned judgments of conviction. Both the Courts have recorded detailed reasons, while convicting the petitioner and the conviction of the petitioner is ordered to be upheld.

9. Now, adverting to the order on quantum of sentence, as per the orders passed by the Courts below, the petitioner was sentenced to undergo rigorous imprisonment for a maximum period of two years under Sections 279, 304-A of IPC. During the course of hearing, the learned State counsel has placed on record the custody certificate of the petitioner and as per the said certificate, the petitioner has undergone 01 year, 02 months and 15 days of sentence (including remissions). Thus, it is evident that the petitioner has undergone a substantial period of imprisonment. Apart from that, it is also discernible from the record that the FIR in the present case was registered on 26.12.2008 and the petitioner is facing the agony/trial of the case for the last about 15 years. Still further, the petitioner is the only bread earner of the family and has grown up children, who are of marriageable age. Thus, no purpose would be served by sending the petitioner behind the bars, at this stage. Apart from that, the petitioner is a first offender and was never involved in any other criminal activity.

10. Consequently, the present petition is partly allowed and taking a lenient view in the matter, the order of sentence is modified to the extent that the sentence imposed on the present petitioner is reduced to the period already undergone by him in the present case. However, the amount of fine is imposed on the present petitioner is ordered to be enhanced to Rs.50,000/-, which shall be deposited by the petitioner with the Court of Chief Judicial Magistrate, Barnala within a period of 03 months from today and the Chief Judicial Magistrate, Barnala is directed to disburse the said amount of fine as compensation to the legal representatives of the Renu Bala (since deceased) after due verification and against proper receipt. In case, the petitioner does

not deposit the amount of fine as indicated above, the present petition shall be deemed to be dismissed.

11. The present petition stands disposed off.
12. All other pending applications, if any, are also disposed off, accordingly.

06.09.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No