

CRR-1943-2018 (O&M)

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2023:PHHC:123804

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

SR. No.107

CRR-1943-2018 (O&M)

Date of decision:01.09.2023

Sandeep Kumar

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Deepak Gupta, Advocate for the petitioner.
Mr. Mohinder Singh Joshi, Addl.A.G., Punjab.
Mr. B.S. Bhalla, Advocate for the complainant.

N.S. SHEKHAWAT, J.

1. This criminal revision petition is directed against the judgment dated 22.05.2018 passed by the Additional Sessions Judge, Moga, whereby appeal of the petitioner against the judgment of conviction and order of sentence dated 04.03.2017 passed by the Sub Divisional Judicial Magistrate, Nihal Singh Wala, was dismissed, upholding the conviction and sentence of the petitioner.

2. As per the case of the prosecution, the FIR in the present case was got registered by Jasvir Singh son of Darshan Singh by alleging that Sukhjinder Singh was his son. On 25.12.2013, Jagsir Singh son of Mukhtiar Singh had taken his son Sukhjinder Singh on his motorcycle to go from village Lopo to Badhni Kalan. At about 10:50 AM, he was standing near the gate of Baba Kabran Wala and he saw that an Alto car bearing registration

registration No.PB-29-9233 was coming from the side of Badhni Kalan. As per the complainant, the driver of the Alto car was driving the car rashly and negligently, who hit the car in the motorcycle driven by Jagsir Singh, from behind and both of them fell on the road. Jagsir Singh fell towards his left hand, whereas Sukhjinder Singh fell towards the right side of the road and the mini bus coming from the opposite side crushed the head of Sukhjinder Singh under the rear tyre, as a result of which, Sukhjinder Singh died at the spot. The driver of the Alto car as well as the driver of the mini bus stopped the vehicle and came out. The mini bus was driven by Gurjit Singh, who was already known to the complainant. While he was taking care of his injured son, the car driver fled from the place of occurrence.

3. At the very outset, learned counsel for the petitioner submits that he does not wish to challenge the impugned judgment of conviction and leniency may be shown, while awarding the sentence to the petitioner. Even though learned counsel for the petitioner does not wish to challenge the conviction of the petitioner, still this Court has examined the merits of the case, on the basis of the evidence led by the parties.

4. The petitioner was ordered to be charge-sheeted in the present case under Sections 279/304-A IPC and the petitioner had claimed trial, by pleading his innocence before the trial Court. In order to prove the case against the petitioner, the prosecution has examined ASI Pritam Singh as PW-1, complainant Jasvir Singh as PW-2, Jagsir Singh as PW-3, Mechanic Balvir Singh as PW-4, DTO Clerk Harjinder Kumar as PW-5 and Dr. Ravi Chand as PW-6.

5. In the present case, PW-1 ASI Pritam Singh was the

of complainant as Ex.P1, police proceedings as Ex.P2, FIR as Ex.P3, Site Plan as Ex.P-4, Inquest Report as Ex.P5 and the application for conducting the post-mortem examination on the dead body of deceased Sukhjinder Singh as Ex.P6, memo regarding taking into possession blood sample as Ex.P7, memo regarding taking into possession dead body as Ex.P8, recovery memos of mini bus and motorcycle alongwith photocopy of RCs as Ex.P9, photocopy of RCs as Mark-A and Mark-B, arrest memo of accused as Ex.P10 and Ex.P11, recovery memo of Alto Car along with photocopy of RC as Ex.P12, recovery memo of copy of driving license of accused Gurjit Singh as Ex.P13 and copy of driving license as Mark-C. The prosecution examined PW-2 Jasvir Singh, complainant, who reiterated the version as mentioned in his statement Ex.P1. Jagsir Singh, eye-witness of the case, was examined as PW-3, who supported the version of PW-2 Jasvir Singh. Further Balvir Singh, retired mechanic, was examined as PW-4, who proved the mechanical report of the offending car as well as offending mini bus. He also proved on record the mechanical report of motorcycle, on which the deceased was riding. Harjinder Kumar, Junior Assistant, DTO Moga, was examined as PW-5 and PW-6 Dr. Ravi Chand was examined to prove the post-mortem report of the deceased. As per PW-6 Dr. Ravi Chand, the death had taken place immediately after the accident.

6. In the present case, the prosecution version had been proved by PW-2 Jasvir Singh, who has been fully supported by the testimony of PW-3 Jagsir Singh. From the statements of the two witnesses, it stood amply proved that the present petitioner was rash and negligent in driving the offending vehicle and due to his rash and negligent act, the deceased lost his

below and there is no illegality or infirmity in the impugned judgments passed by both the Courts and thus, the judgment of conviction passed by the Additional Sessions Judge, Moga, is ordered to be maintained.

7. Now adverting to the order of sentence, vide the impugned judgments, both the courts had sentenced the petitioner to undergo rigorous imprisonment for a period 02 years and to pay a fine of Rs.9,000/- under Section 304-A IPC and was further sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a fine of Rs.1000/- under Section 279 IPC and both the sentences were ordered to run concurrently. During the course of hearing, learned State Counsel has placed on record the custody certificate and as per the said custody certificate dated 01.05.2019, the present petitioner has already undergone 08 months and 26 days of sentence (including remissions) out of total sentence of 2 years. Apart from that, it is also apparent from the order dated 20.03.2019 passed by this Court that the petitioner had got prepared two demand drafts of Rs.50,000/- each, bearing No.000640 & 000641 dated 19.03.2018 in the name of the complainant and were handed over to learned counsel appearing on behalf of the complainant, for handing over the same to the complainant. Still further, during the course of hearing on 28.08.2023, learned counsel for the parties had made a statement that the matter was amicably resolved between the parties. Moreover, from the perusal of record, it is apparent that the present petitioner is facing the agony of trial/appeal for the last about 10 years. He is the sole bread earner of the family and has to take care of the grown up children. Even otherwise, he has already undergone his substantial period of sentence i.e. about 09 months. Thus, in view of the facts and circumstances

of the case, the ends of justice would be suitably met, if his substantive sentence is reduced to the one already undergone by him.

8. Keeping in view the above discussion, the impugned judgment of conviction dated 22.05.2018 passed by the learned Additional Sessions Judge, Moga, is upheld. However, the order of sentence is modified to the extent that the substantive sentence of imprisonment awarded by the trial Court is reduced to the period already undergone by the appellant.

9. With the above modification, the present revision petition stands disposed of in the above terms. Pending application(s), if any, shall also stand disposed of.

01.09.2023
mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO