

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-2331-2018(O&M)

Date of Decision:-07.11.2023

Mehnga Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ravi Malhotra, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner-accused against the judgment dated 14.05.2018 passed by Additional Sessions Judge, Fatehgarh Sahib whereby the judgment of conviction and order of sentence dated 06.04.2017 passed by Judicial Magistrate Ist Class, Fatehgarh Sahib has been upheld.

3. The brief facts of the case are that the statement of one Maninderjit Singh complainant was recorded to the effect that on 23.12.2014 while he was returning from Mandi Gobindgarh on his car bearing PB-23P-2531, one Oil Tanker bearing registration number PB-10-CR-1076 was going ahead of him. A Tipper bearing registration number BR-02K-9913 driven by petitioner (accused) Mehnga Singh came from the front side which first struck the oil tanker and then his (complainant's) car. Thereafter it struck the Ritz car following his (complainant's) car. The said Ritz car was

being driven by Amarjit Singh Dharni (deceased) wherein Sukhdev Kaur, Harwinder Kaur @ Rupinder Kaur and Kiran were also seated. Amarjit Singh died at the spot and his companions received multiple injuries. The accident was caused due to the rash and negligent driving of Mehnga Singh.

4. Pursuant to the filing of the challan, the Trial took place and the petitioner was convicted and sentenced as under:-

Sr.No.	Offence under Sections	Imprisonment	Fine	In default of fine imprisonment
1.	Section 304 IPC	SI for a period of Two Years	Rs.2000/-	Nil
2.	Section 279 IPC	SI for 06 Months	-	Nil
3.	Section 337 IPC	SI for 06 Months	-	Nil

5. Thereafter petitioner-accused filed an appeal bearing Criminal Appeal No. 92 dated 06.05.2017. The said appeal came to be dismissed by the Court of Additional Sessions Judge, Fatehgarh Sahib vide Judgment dated 14.05.2018.

6. The revision petition has been preferred against the aforesaid judgments of conviction.

7. The Counsel for the petitioner contends that the Trial Court and the Lower Appellate Court had failed to appreciate the fact that the driver of the oil tanker who had been struck first by the tipper had not been examined which was fatal to the prosecution case. PW-1 Maninderjit Singh was not an eye witness to the occurrence and was not present at the spot. It was strange that the witness had been able to mention the parentage and full address of the petitioner in his statement dated 24.12.2014 as there was nothing to suggest that the complainant was earlier known to the petitioner. There was no evidence on record to prove that the petitioner had been driving the vehicle in a rash and negligent manner. Even otherwise, as the petitioner was a first time offender and had undergone custody of more than

01 year of his awarded sentence of 02 years and was not a previous convict, he was entitled to the concession of probation or his sentence ought to be reduced to the period already undergone by him.

8. The Counsel for the State has placed on record the custody certificate dated 07.11.2023 of the petitioner as per which he has undergone a custody period of 01 year 01 month and 06 days. He contends that the offence against the petitioner stands proved beyond reasonable doubt. All the material witnesses have deposed in consonance with each other. Even the petitioner had confined his prayer to the reduction in the quantum of sentence alone and, therefore, he could not be allowed re-agitate the case in its entirety once again.

9. I have heard learned Counsel for the parties at length.

10. A perusal of the record would reveal that the material prosecution witnesses are consistent in their version that the accident had been caused by the rash and negligent driving of the petitioner. Merely because some witnesses had not been examined would not cause any dent in the prosecution case. Therefore, the offence stands established beyond any reasonable doubt.

11. In view of the above, I find no reason to interfere with the well reasoned judgments of conviction and order of sentence recorded by the Judicial Magistrate Ist Class, Fatehgarh Sahib which has been upheld by Additional Sessions Judge, Fatehgarh Sahib. Resultantly, the revision petition stands dismissed.

12. As regards the reduction in sentence, the Hon'ble Supreme Court in **Elangovan Vs. State Represented by Inspector of Police Criminal Appeal 2719 of 2023 arising out of SLP(Crl.) No.5084/2022 Decided on 05.09.2023** had reduced the substantive sentence of the accused therein to

the period already undergone by him subject to payment of compensation of Rs.3 lacs. In the instant case the petitioner has already undergone more than 01 year of his substantive sentence. He is merely a driver. Therefore, while upholding his conviction, I deem it appropriate to reduce the substantive sentence of the petitioner to the period already undergone by him subject to his depositing a sum of Rs.50,000/- towards compensation with the Trial Court for disbursal to the legal representatives of the deceased-Amarjit Singh within a period of 04 weeks from the date of receipt of certified copy of this order. In default of payment of amount of awarded compensation the petitioner shall undergo the entire sentence of 02 years imposed upon him by the Trial Court and upheld by the lower Appellate Court.

13. The revision petition stands disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

November 07, 2023
Vinay

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