

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR-1906-2022 (O&M)
Date of decision: 26.07.2023

Hakamdeen ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Sukhveer Kaur, Advocate for
Mr. R.K. Arya, Advocate for the petitioner.

Mr. Hakam Singh, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition is for setting aside the impugned judgment/order dated 03.03.2017 passed by the learned Judicial Magistrate 1st Class, Gurdaspur, and 05.08.2022 passed by the learned Additional Sessions Judge, Gurdaspur.

Vide order dated 10.02.2023 passed by Coordinate Bench, the sentence of the petitioner has already been suspended.

The petitioner was tried in case bearing FIR No.72 dated 05.01.2013, registered at Police Station Bhaini Mian Khan, under Sections 304-A, 427, 279 IPC. The learned Judicial Magistrate 1st Class, Gurdaspur, vide judgment and order dated 03.03.2017, found the petitioner guilty for the offence punishable under Section 304-A, 279 and 427 IPC, and sentenced him as under:

Section	Sentence
279 IPC	To under S.I. for 06 months.
304-A- IPC	To undergo simple imprisonment for a period of two years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo the SI for a period of 10 days.
427 IPC	To pay a find of Rs. 500/- and in default thereof payment of fine, further undergo the SI for a period of 10 days.

Aggrieved there-against, the petitioner preferred an appeal before the learned Additional Sessions Judge, Gurdaspur, which had been dismissed vide impugned judgment dated 05.08.2022.

Still aggrieved, the petitioner has preferred the present revision petition.

During the course of hearing, learned counsel for the petitioner does not lay any challenge to the judgments of conviction of the petitioner recorded by the Courts below and for that reason, the facts are not required to be reproduced here.

While making submissions qua the quantum of sentence, learned counsel for the petitioner would submit that the petitioner is a first offender; that he has no shady past; that he has been facing the agony of the trial since 2017 and that his conduct during the trial has been quite fair and *bona fide* and he has never obstructed the course of trial and the appeal. The petitioner has already undergone the actual sentence of 06 months and 07 days. Learned counsel for the petitioner, thus submits that under these circumstances, the sentence imposed upon the petitioner may be reduced to the one already undergone by him.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner, would submit that the sentence awarded to the petitioner is in proportion to the offence committed by him and therefore, the petitioner does not deserve any leniency.

I have heard the learned counsel for the parties.

Having heard the learned counsel for the parties and after a lucid examination of the record, this Court finds that both the courts below have rightly convicted and sentenced under Sections 304-A, 427, 279 IPC. There is no manifest error in the concurrent findings recorded by the courts below. Therefore, the findings of conviction are upheld.

Now coming to the quantum of sentence. The fact remains that the present FIR was registered on 05.01.2013 and by now, the petitioner has faced the agony of trial for more than 10 years. The petitioner has undergone the actual sentence of 06 months and 07 days out of the total sentence of 02 years and his sentence was suspended by a Coordinate Bench vide order dated 10.02.2023.

The Hon'ble Supreme Court in State of Punjab Vs. Saurabh Bakshi, 2015(2) RCR (Criminal) 495, while setting aside the order of the High Court, thereby reducing the sentence imposed upon the accused i.e. 1 year to the period already undergone by him i.e. 24, days, awarded the sentence of six months to the accused-respondent therein. It was held as under:-

“17. In the instant case the factum of rash and negligent driving has been established. This court has been constantly noticing the increase in number of road accidents and has also noticed how the vehicle drivers have been totally rash and negligent. It seems to us driving in a drunken state, in a rash and negligent manner or driving with youthful adventurous enthusiasm as if there are no traffic rules or no discipline of law has come to the centre stage.

The protagonists, as we perceive, have lost all respect for law. A man with the means has, in possibility, graduated himself to harbour the idea that he can escape from the substantive sentence by payment of compensation. Neither the law nor the court that implements the law should ever get oblivious of the fact that in such accidents precious lives are lost or the victims who survive are crippled for life which, in a way, worse than death. Such developing of notions is a dangerous phenomenon in an orderly society. Young age cannot be a plea to be accepted in all circumstances. Life to the poor or the impecunious is as worth living for as it is to the rich and the luxuriously temperamental. Needless to say, the principle of sentencing recognizes the corrective measures but there are occasions when the deterrence is an imperative necessity depending upon the facts of the case. In our opinion, it is a fit case where we are constrained to say that the High Court has been swayed away

by the passion of mercy in applying the principle that payment of compensation is a factor for reduction of sentence to 24 days. It is absolutely in the realm of misplaced sympathy. It is, in a way mockery of justice. Because justice is "the crowning glory", "the sovereign mistress" and "queen of virtue" as Cicero had said. Such a crime blights not only the lives of the victims but of many others around them. It ultimately shatters the faith of the public in judicial system. In our view, the sentence of one year as imposed by the trial Magistrate which has been affirmed by the appellate court should be reduced to six months."

In view of the above, the prayer of the learned counsel for the petitioner for reducing the petitioner’s sentence to the period already undergone, can be considered and allowed in terms of the judgment of the Hon’ble Supreme Court in Saurabh Bakshi’s case (supra).

In view of the above, while upholding the conviction of the petitioner under Sections 304-A, 427, 279 IPC, the substantive sentence imposed upon the petitioner is reduced to the one already undergone by him. The fine imposed upon the petitioner along with its default clause, under the aforesaid Sections is maintained. Apart from that, the petitioner is directed to pay a sum of Rs.25,000/- as compensation to the legal heirs of the deceased, within a period of two months from today. It is made clear that in case, the compensation amount is not paid within the time stipulated, the present revision petition shall be deemed to have been dismissed.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

26.07.2023
Mangal Singh

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