

CRR-2905 of 2022 (O&M)

2023:PHHC:044566

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2905 of 2022 (O&M)
Reserved on: 17.03.2023
Date of Pronouncement: 27.03.2023

Pat Ram
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Pranav Chamoli, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

NAMIT KUMAR, J.

This revision petition has been filed under Section 401 Cr.P.C. against judgment dated 10.10.2022 passed by the Court of learned Sessions Judge, Bathinda, as well as the judgment of conviction and order of sentence dated 11.09.2018 passed by the Court of learned Judicial Magistrate Ist Class, Bathinda, whereby petitioner has been held guilty and sentenced to undergo imprisonment as under: -

Sr. No.	Under Section	Imprisonment
1.	279 IPC	To undergo rigorous imprisonment for a period of six months.
2.	304-A IPC	To undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1,000/-. In default of payment of fine to undergo simple imprisonment for 15

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		days.
3.	337 IPC	To undergo rigorous imprisonment for a period of six months.
4.	338 IPC	To undergo rigorous imprisonment for a period of six months.

All the sentences were ordered to run concurrently.

As per the case of prosecution, on 01.04.2014 an information received to the effect that last night, one Ashu daughter of Hakam Singh resident of Bajakhana and Ajaib Singh son of Kulwant Singh resident of Pakka Kalan had died in an accident and one Reena wife of Hakam Singh and Bawi wife of Gurpreet Singh resident of Bhagtuana are admitted at Max Hospital, Bathinda. Investigating Officer be sent for further proceedings. Upon this, ASI Iqbal Singh alongwith HC Randhir Singh No. 1126, HC Harjit Singh No. 1014, PHG Tar Singh No. 22346 reached at Civil Hospital, Bathinda where complainant Natha Singh son of Gattu Singh resident of village Chak Ruldu Singh Wala get recorded his statement with ASI Iqbal Singh to the effect that he is resident of above said address and is a labourer by profession. He has further get recorded that they are two brothers and four sisters and out of them, all the sisters are married and he and his brother Sewak Singh are unmarried. He has further get recorded that today i.e. 01.04.2014, there was his engagement at village Chak Ruldu Singh wala and regarding this, his sister Reena wife of Hakam Singh resident of Bajakhana, his niece (Bhanji) Ashu daughter of Hakam Singh and his sister Bawi wife of Gurpreet Singh resident of Bhagtuana

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had come to him at village Ruldu Singh Wala. He has further get recorded that on 31.03.2014, he alongwith his friend Ajaib Singh son of Kulwant Singh resident of Pakka Kalan and his sisters namely Reena and Bawi and niece Ashu had gone to Mandi Dabwali for shopping in the car of Ajaib Singh bearing registration No. PB-10BH-3434 Marka Alto and after completing the shopping, they were coming back to their village and the Alto car was being driven by his friend Ajaib Singh and he (complainant) was sitting on the conductor seat and his sisters and niece were sitting on the back seat of the car. He has further get recorded that when they reached near the Gurudwara Sahib Baba Jiwan Singh situated near village Pathrala, then it was about 8.00pm, then from their opposite side, one trola was coming at a very high speed and driver of the same has collided his trola straightly in their car in a very rash and negligent manner and due to this, they all present in the car sustained severe injuries and driver of the trola fled away from the spot after leaving the trola there. Peoples were gathered at the spot and he saw that his niece Ashu had died. Then one Ambulance came from the side of Dabwali who get them admitted at Max Hospital, Bathinda where during treatment, Ajaib Singh had expired and due to accident, their car was also damaged. Now he came to know that the offending vehicle i.e. trola bearing registration no. RJ-31GA-4322 was being driven by petitioner-Pat Ram son of Seudan resident of Prabhusar P.S. Pallu, District Hanumangarh (Rajasthan). The said accident was occurred due to rash and negligent driving of the vehicle by the petitioner. Action be taken against the accused. On the basis of afore

said information, FIR was registered against the petitioner. Offending vehicle i.e. Trolly as well as accidental vehicle i.e. Alto Car were taken into police possession. Rough site plan was prepared. On 18.04.2014, Manpreet Kaur alias Bawi wife of Gurpreet Singh resident of Ramgarh Bhagtuana P.S.Jaitu also expired. Statement of witnesses were recorded. Postmortem of dead bodies were conducted. Petitioner was arrested. After completion of necessary investigation, challan against the petitioner was presented in the Court.

After hearing learned counsel for the parties and on appreciation of evidence on record, trial Court vide judgment of conviction and order of sentence dated 11.09.2018 held the petitioner guilty and sentenced him as stated above.

Against the judgment of conviction and order of sentence of the trial Court, petitioner preferred appeal before the appellate Court, which was dismissed vide judgment dated 10.10.2022.

On 01.02.2023, this Court had issued notice of motion quantum of sentence only. During the course of arguments, learned counsel for the petitioners has reiterated that he does not wish to challenge the conviction of the petitioner on merits but would be satisfied if a lenient view is taken with respect to the sentence which has been awarded to the petitioner. He has submitted that incident pertains to the year 2014 and the petitioner has suffered the agony of trial/appeal/revision for all these years. It is further submitted that petitioner has already undergone sentence for more than five months. It

is also submitted that petitioner is a sole bread-winner of the family and

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he is a first offender. Under these circumstances, the sentence imposed upon the petitioner may be reduced to the one already undergone by them.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner, would submit that no illegality/perversity is found in the well-reasoned orders of trial/appellate Court and the sentence awarded to the petitioner is in proportion to the offence committed by him. The petitioner does not deserve any leniency. However, he submits that petitioner is a first time offender and no other case is pending against him. He further submits that out of total sentence of two years, petitioner has already undergone sentence for 05 months and 07 days.

I have heard the learned counsel for the parties and perused the record.

This Court is of the view that the incident is of the year 2014, the petitioner has suffered agony of trial/appeal/revision for all these years and as per custody certificate dated 16.03.2023 furnished by learned State counsel, petitioner has undergone actual sentence for a period of 05months and 07 days out of total sentence of two years, he is a sole bread-winner of the family and first offender, and thus keeping in view these facts and circumstances and judgments relied upon by learned counsel for the petitioner, it is just and expedient to reduce the sentence of the petitioner to the period already undergone by him. It is settled proposition of law that each case is to be decided on its peculiar facts and circumstances. The view taken by this Court also finds support

from the judgments of the Hon'ble Supreme Court in the case of "**R. Soundarajan v. Seed Inspector, Coimbatore and another**" reported as 2006(4) R.C.R. (Criminal) 645; "**Umrao Singh v. State of Haryana**", 1981 AIR (SC) 1723 and the judgment of this Court in "**Sahab Singh vs. State of Haryana**" 2019(3) RCR (Crl.) 727.

The relevant observations made by the Hon'ble Supreme Court in the case of **R. Soundarajan** (supra) are as under:-

"26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment."

Similarly in the case of **Umrao Singh** (supra) the Apex Court has observed as under:-

"After hearing counsel for the parties, we are satisfied that this is a case falling under the proviso of Section 16 (1)(a)(i) and therefore, for adequate and special reasons, the sentence lower than the minimum prescribed could be awarded. The High Court itself felt bound to award the minimum sentence but on merits was satisfied that if the legal position warranted the appellant could be given lesser sentence. We are in agreement with the view of the High Court. The appellant/ petitioner is aged about 70

and suffering from asthma illness and has a clean past record. Besides, the percentage of deficiency that was noticed in the milk sold by him was 0.4% in the fat contents.

2. Having regard to these facts, the expression of the view of the High Court was justified. We accordingly reduce the sentence of the appellant to the period already undergone. The sentence, of fine is maintained and we are informed that he has already paid the fine. Since he is already on bail, he should be released forthwith.

3. The appeal is disposed of accordingly."

In the case of **Sahab Singh** (supra) by following the judgment of the Hon'ble Supreme Court in "**State of Punjab vs. Saurabh Bakshi**" 2015 (2) RCR (Criminal) 495, this Court while upholding the conviction of the petitioner therein has reduced the sentence of the petitioner by observing as under:-

*"However, the prayer of the learned counsel for reduction of the substantive sentence of the petitioner to six months in view of the Hon'ble Supreme Court's judgment in **Saurabh Bakshi's** case, merits acceptance. It may be noticed that as per the custody certificate produced on record, the petitioner has already undergone 7 months and 9 days out of the total sentence of two years imposed upon him.*

*The Hon'ble Supreme Court in **Saurabh Bakshi's** case (supra), while setting aside the order of the High Court, thereby reducing the sentence imposed upon the accused i.e. one 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.”

Adverting to the facts of the present case and keeping in view the mitigating circumstances noted above, this Court is of the considered view and has no hesitation to conclude that the ends of justice would be adequately met if the sentence of the petitioner is ordered to be reduced to the period already undergone by him.

In view of the peculiar facts and circumstances of the present case noted above, coupled with the reasons aforementioned, the conviction of the petitioner in the criminal revision petition is upheld. However, the sentence is ordered to be reduced to the period already undergone by the petitioner. However, the fine shall remain intact. The same would, however, be subject to deposit of an amount of Rs.75,000/- with the Court of concerned Illaqa Magistrate/trial Court, Bathinda, within a period of two months from today. The concerned Illaqa Magistrate/trial Court, Bathinda, is directed to issue notice to the legal representatives of the deceased after the said amount is deposited by the petitioner so that the said amount can be paid to the legal representatives of the deceased. It is made clear that in case the aforesaid amount of Rs.75,000/- is not deposited within the stipulated period, then the present revision petition shall be deemed to have been dismissed.

Impugned judgment of conviction stands affirmed with above modification. The sentence of fine however, shall stand maintained,

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if not so deposited, same shall be paid within four weeks from the date of passing of this order.

Disposed of. Pending application(s), if any, stand disposed of in view of the aforesaid judgment.

27.03.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No