

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-380-2022(O&M)
Reserved on:-07.02.2024
Pronounced on:-28.02.2024

ROSHAN LAL

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Ravi Gakhar, Advocate
for the petitioner.
Mr. Sarabjit Singh Cheema, DAG, Punjab.
Mr. Vinod Kumar, Advocate for the complainant.

SANJIV BERRY, J.(ORAL)

By way of the present Revision, petitioner has sought quashing of order dated 24.01.2022 passed by Ld. Sessions Judge, Hoshiarpur and judgment of conviction and order of sentence dated 28.08.2018 passed by learned Judicial Magistrate Ist Class, Mukerian, in FIR No.18 dated 08.03.2015, under Sections 279, 337, 338, 304-A, 427 IPC, Police Station Talwara, vide which petitioner was convicted and sentenced to undergo imprisonment as under:-

Section	Imprisonment
279 IPC	To undergo rigorous imprisonment for a period of 3 months and to pay fine of ₹250/- and in default of payment of fine, to further undergo simple imprisonment for a period of fifteen days.
338 IPC	To undergo rigorous imprisonment for a period of 2 years and to pay fine of ₹500/- and in default of payment of fine, to further undergo simple imprisonment for a period of 1 month.
304-A IPC	To undergo rigorous imprisonment for a period of 2 years and to pay fine of ₹500/- and in default of payment of fine, to further undergo simple imprisonment for a period of 1 month.

2. Brief facts of the case are that on 07.03.2015, the mother of the complainant namely Savitri Devi was coming along with Bhavishan Kumar on his motorcycle and when they reached near Village Lalota, a bus bearing No.PB-07-U-1991 being driven rashly and negligently hit against the motorcycle driven by Bhavishan Kumar, due to which the mother of the complainant died at the spot and Bhavishan Kumar sustained serious injuries. FIR No.18 dated 08.03.2015 (supra) was registered and petitioner was arrested on 09.03.2015. After conclusion of investigation challan was presented, the prosecution adduced evidence and after conclusion of trial the learned trial Court by hearing the arguments passed the judgment of conviction and sentence dated 28.08.2018. The petitioner challenged the said judgment and order of conviction and sentence dated 28.08.2018 in the Court of Ld. Sessions Judge, Hoshiarpur. The learned Sessions Court, however dismissed the same vide the impugned judgment dated 24.01.2022, which has been assailed by the petitioner in the present revision petition.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that the petitioner is having no criminal antecedents and has already undergone sentence for a period of 1 year 3 months and 4 days out of total sentence of 2 years awarded by the learned trial Court. He submits that for the purpose of this petition he is only praying to consider the period already undergone by the petitioner in custody keeping in view the fact that the petitioner is not previous offender and even no criminal case is pending against him coupled with the fact that the matter has been amicably settled vide compromise dated 23.04.2022 (Annexure A1) wherein the complainant

who happens to be the son of deceased had pleaded no objection if the petitioner is considered for sentence to the period already undergone by him. He contends that at this stage he does not challenge the impugned judgment on merits but on the aforesaid limited aspect.

4. Per contra, learned State counsel has submitted that the petitioner has rightly been convicted vide impugned judgment dated 28.08.2018 and the judgment does not suffer any infirmity, however, he admitted that the petitioner is not having any criminal antecedents.

5. After considering the respective arguments and perusing the record and keeping in view the specific contentions of the learned counsel for the petitioner, it is observed that the petitioner has not challenged the impugned judgment in question on merits. Even otherwise from the perusal of the impugned judgment dated 28.08.2018 it transpires that the judgment of conviction is based on correct appreciation of evidence and does not suffer from any infirmity so as to call for any interference therein. Accordingly the impugned judgment of conviction and sentence dated 28.08.2018, affirmed by learned Sessions Judge vide judgment dated 24.01.2022 is hereby stands affirmed suffering no illegality or infirmity. However, as regards the question of sentence is concerned, admittedly the petitioner was awarded sentence of 2 years by the learned trial Court which was affirmed in appeal too. As per the custody certificate he has already under sentence of 1 year 3 months and 4 days. There is no criminal case registered or pending against the petitioner moreover the aggrieved party has no objection if the sentence of petitioner is reduced to the period undergone by him. No minimum period of sentence is prescribed for the said offences,

therefore, considering the circumstances it is deemed appropriate and in the interest of justice that the order of conviction and sentence dated 28.08.2018 passed by learned Judicial Magistrate Ist Class, Mukerian is modified to the period already undergone i.e. 1 year 3 months and 4 days as per custody certificate dated 06.02.2024.

6. Accordingly the revision petition is disposed of in the above terms.
7. Pending miscellaneous application(s), if any, stands disposed of.

28.02.2024

Gyan

i) Whether speaking/reasoned?

ii) Whether reportable?

(SANJIV BERRY)

JUDGE

Yes/No

Yes/No