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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1566-2008 (O&M)

Date of decision: 24.01.2024

Darshan Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Rangi, Advocate and
Mr. J.S. Sekhon, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J.

1. The instant revision petition has been preferred against the judgment dated 21.07.2008 passed by learned Additional Sessions Judge, (Adhoc) Fast Track Court, Ludhiana upholding judgment of conviction and order of sentence dated 01.09.2007 passed by learned Chief Judicial Magistrate, Ludhiana in FIR No.92 dated 15.04.1999 under Sections 279/337/338 (304-A IPC added later on) of the IPC registered at Police Station Focal Point, Ludhiana. The petitioner was sentenced as under:-

Under Section	Sentence
304-A IPC	R.I of 1.1/2 years with a fine of Rs.1000/- in default of which R.I for 30 days.
279 IPC	R.I of 6 months, both to run concurrently.

FACTUAL BACKGROUND

2. Briefly, the facts are that on getting a telephonic information regarding admission of injured Maheshwar Thakur in a road-accident, ASI

Kuldip Singh along with some other police officials visited the hospital. However, the injured was declared unfit to make a statement by the Medical Officer. Hence, statement of the injured could not be recorded for a while. On 25.04.1999 complainant Mohinder Thakur, who is the brother of the injured-deceased, went to ASI Kuldip Singh and got his statement recorded. As per the statement, when on 23.04.1999, the complainant and his brother Maheshwar Thakur were travelling on their bicycles at about 10:05 A.M. a Punjab Roadways bus bearing registration No.PB-12-C-9195 came at a very fast speed without blowing horn being driven in a rash and negligent manner and hit the bicycle of his brother. On account of the said accident, the brother of the complainant fell down on the road and received multiple injuries on his head, legs, arms and chest. The driver of the bus fled away from the spot but the complainant later on found out that the said bus was being driven by the petitioner Darshan Singh. Then the complainant shifted his injured brother to the hospital with the help of two police officials who were passing by. On the basis of this statement made by the complainant who is the brother of the injured-deceased, the aforesaid FIR was registered under Sections 279/337/338 of IPC. However, on account of death of the injured, the offence under Section 304-A IPC was added.

3. The learned trial Court upon finding a prima-facie case, framed charges on 20.08.1999 under Section 279/304-A IPC against the petitioner, to which he pleaded not guilty and claimed trial. The prosecution examined as many as 7 witnesses to establish its case. The statement of the accused under Section 313 of the Cr.P.C. was recorded wherein he denied all the incriminating evidence put to him and pleaded false implication and innocence. Further, the

petitioner-accused tendered Ex.D1- Casualty FIR Form in his defense and closed the same.

4. On assessing the material available on record, the learned trial Court vide judgment dated 01.09.2007 convicted and sentenced the petitioner as mentioned above. Aggrieved by the judgment of conviction, the petitioner preferred an appeal before the learned lower Appellate Court which was dismissed vide judgment dated 21.07.2008.

CONTENTIONS

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 01.09.2007 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioner, who has already undergone a period of about 3 months of custody. He further submits that the sentence of the petitioner was suspended by this Court vide order dated 16.10.2008. Further submitted that the petitioner has reformed and intends to live his life as a law-abiding citizen.

6. *Per contra*, learned State counsel opposes the prayer of the petitioners as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has been upheld by the learned lower Appellate Court, as such, he does not deserve any leniency.

ANALYSIS AND OBSERVATIONS

7. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

8. In **Deo Narain Mandal v. State of UP (2004) 7 SCC 257**, a three Judge bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and

maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two Judge Bench of the Hon’ble Supreme Court in **Ravada Sasikala v. State of AP AIR 2017 SC 1166**, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformative.

9. As per the custody certificate produced by the learned State counsel, details of custody period of the petitioner is tabulated as under:-

Petitioner-Darshan Singh:

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	0 days
2.	Custody after conviction	21.07.2008 to 21.10.2008	92 days

3.	Interim bail	-	-
4.	Actual custody period after conviction	-	92 days
5.	Actual undergone period	-	92 days
6.	Earned remission	-	0 days
7.	Total sentence including remission		92 days

10. A perusal of the judgment of conviction passed by the learned trial Court and the learned Lower Appellate Court indicates no perversity in their finding and the same are based on correct appreciation of evidence available on record. Learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer to quantum of sentence qua the petitioner.

CONCLUSION

11. The FIR in the present case was registered on 15.04.1999. Petitioner has been facing protracted proceedings for about 24 years. As per his custody certificate, there are no other criminal cases pending against the petitioner. Out of the total sentence awarded of 1 year and 6 months, he has already undergone about 3 months of custody. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence of rigorous imprisonment awarded to the petitioner is reduced to the period already undergone by him.

12. Consequently, the present revision is disposed of in the following terms:-

The judgment dated 21.07.2008 passed by the Additional Sessions Judge, (Adhoc) Fast Track Court, Ludhiana confirming the conviction of the petitioner is upheld, however, the order of sentence dated 01.09.2007 passed by the learned Chief Judicial Magistrate, Ludhiana is

modified to the extent that the sentence of rigorous imprisonment for one and half year awarded to the petitioner is reduced to the period of sentence already undergone by him.

The sentence of fine of an amount of Rs.1000/- imposed upon the petitioner by the learned trial Court is increased to Rs.10,000/-. The petitioner is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

13. In view of the above discussion, the present petition is partially allowed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

24.01.2024
Neha

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