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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRR-2146-2008 (O & M)
Date of decision: 15.02.2024

BALDEV SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mandeep Kaushik, Advocate for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

This instant revision petition has been preferred against the judgment dated 25.07.2008 passed by learned Additional Sessions Judge, Ludhiana upholding judgment of conviction and order of sentence dated 01.08.2006 passed by learned Judicial Magistrate Ist Class, Jagraon in case bearing FIR No.90 dated 15.11.2000 registered under Sections 279, 304-A of the IPC. The petitioner was sentenced as under:-

Under Section	Sentence
304-A IPC	R.I of 1 and half year with a fine of Rs.200/- in default of which R.I for 1 month.
279 IPC	R.I of 6 months, with a fine of Rs.200/-in default of which R.I for 1 month. (both to run concurrently)

FACTUAL BACKGROUND

2. Briefly, the facts are thaton 15.11.2000, the petitioner being the driver of a private bus bearing registration No.PB-10AN-2956, caused the death of the minor boy namely Sukhchain Singh while he was crossing the road in front of the shop of the complainant Karamjit Singh @ Taki, by driving his bus in a rash and negligent manner. As alleged in the complaint, the bus went out of control of the petitioner and crushed the minor boy by going out

onto the right lane of the road. The occurrence was witnessed by the complainant and the father of the deceased minor. The complainant after leaving the dead body of the victim with his father, lodged the FIR (supra) against the petitioner.

3. The learned trial Court, upon finding a prima-facie case, framed charges 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. Further, the petitioner-accused also examined one witness in his defence and then closed the same.

4. On assessing the material available on record, the learned trial Court, vide judgment dated 01.08.2006, 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 25.07.2008.

CONTENTIONS

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 01.08.2006, 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 about 03 and half months of custody. He further submits that the sentence of the petitioner was suspended by this Court vide order dated 03.11.2008. Learned counsel further submits 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-Baldev Singh:

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	0 days
2.	Custody after conviction	25.07.2008 to 05.11.2008	103 days
3.	Interim bail	-	-
4.	Actual custody period after conviction	-	103 days
5.	Actual undergone period	-	103 days
6.	Earned remission	-	0 days
7.	Total sentence including remission	3 months 13 days	103 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 petitioners 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 lodged on 15.11.2000. Petitioner has been facing the agony of 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 and 13 days 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:-

- (i)

The judgment dated 25.07.2008 passed by learned Additional Sessions Judge, Ludhiana confirming the conviction of the petitioner is upheld, however, the order of sentence dated 01.08.2006 passed by the learned Judicial Magistrate Ist Class, Jagraon is modified to the extent that the sentence of rigorous imprisonment for one and half year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him.
- (ii)

The sentence of fine of an amount of Rs.400/- imposed upon the petitioner by the learned trial Court is increased to Rs.10,000/-. The petitioner is directed to deposit the increased 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. Pending miscellaneous application(s), if any, shall also stand disposed of.

February 15, 2024

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(HARPREET SINGH BRAR)

JUDGE

- (i)

Whether speaking/reasoned

Yes/No
- (ii)

Whether reportable

Yes/No