



CRR-817-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.256

Case No. : CRR-817-2024 (O&M)

Date of Decision : July 30, 2024

Vijay Kumar Petitioner

vs.

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Angad Chahal, Advocate
for the petitioner.

Mr. Jasjeet Singh Dhaliwal, AAG, Punjab.

* * *

GURBIR SINGH, J. :

1. **CRM-18316-2024** : This is application under Section 5 of the Limitation Act for condonation of delay of 385 days in filing the present revision petition.

1.1 Reply to the aforesaid application has been filed today in Court, which is ordered to be taken on record.

1.2 For the reasons mentioned in the application, the same is allowed and delay of 385 days in filing the present petition is hereby condoned.

1.4 The application stands disposed of.

2. **Main Case** : The present revision petition has been filed against the order dated 17.01.2023, passed by learned Sessions Judge, Gurdaspur, dismissing the appeal filed by the petitioner against the judgment dated 04.09.2019, passed by learned Judicial Magistrate Ist Class, Gurdaspur,



whereby the petitioner has been convicted under Sections 304-A, 338 and 279 IPC, in case FIR No.77 dated 04.11.2014, under Sections 304-A, 279, 337, 338, 427 IPC, registered at Police Station Behrampur, District Gurdaspur and has been ordered to undergo imprisonment as under :-

Under Section 304-A IPC Rigorous Imprisonment for two years and fine to the tune of Rs.1000/- and in default of payment of fine shall further undergo S.I. for 10 days.

Under Section 338 IPC Rigorous Imprisonment for two years and fine to the tune of Rs.1000/- and in default of payment of fine shall further undergo S.I. for 10 days.

Under Section 279 IPC Rigorous Imprisonment for six months and fine to the tune of Rs.1000/- and in default of payment of fine shall further undergo S.I. for 10 days.

All the aforesaid sentences were ordered to run concurrently.

3. In addition to the aforesaid imprisonment, an amount of Rs.1,00,000/- was awarded to the legal heir(s) of the deceased and an amount of Rs.50,000/- was ordered to be paid by the accused/petitioner to the injured/complainant Archana Salaria. The said amount was to be paid by the accused/petitioner accordingly and in case of failure to pay the said compensation, the legal heir(s) of deceased were given liberty to recover the same by adopting the recourse of law, as available to them.

4. Briefly, the case of the prosecution, registered on the basis of complaint made by one Archna Salaria, is that on 04.11.2014, at about 01:15



PM, the complainant and her husband Dinesh Singh left their house for Dinanagar on their motorcycle bearing registration No.PB-06-R-5026. When they reached outside the Government High School, Jhabkara, a white colour Zen Car bearing registration No.PB-10-S-7888, driven by Vijay Kumar (petitioner) came from opposite side and while driving the car rashly, negligently and at a very high speed, the driver brought the car to the wrong side of the road, hitting the same into the motorcycle of the complainant and her husband. After hitting their motorcycle, the said car hit against the eucalyptus tree standing on the road side. On account of the said accident, the complainant and her husband had fallen down and received injuries. They were taken to the hospital. Dinesh Singh – husband of the complainant succumbed to the injuries.

5. On completion of investigation, challan was presented against the petitioner. Prima facie, charge was framed against the petitioner. The prosecution examined eight witnesses in support of the case of prosecution. On conclusion of evidence of prosecution, statement of the accused/petitioner under Section 313 Cr.P.C. was recorded, wherein he denied all the incriminating circumstances appearing against him and also pleaded false implication and innocence. The accused/petitioner examined only one witness in defence i.e. DW-1 Kamaldeep Singh.

6. After hearing the arguments and appreciating the evidence on record, the learned Judicial Magistrate Ist Class, Gurdaspur convicted the petitioner under Sections 304-A, 338 and 279 IPC and sentenced him, as already detailed above in tabular form. Appeal filed against the said



judgment was dismissed.

7. The latest Custody Certificate of petitioner Vijay Kumar has been produced today in Court by learned State counsel, which is ordered to be taken on record.

8. At the outset, learned counsel for the petitioner has submitted that he does not wish to challenge the conviction of the petitioner. He has further submitted that the petitioner has already undergone a period of 01 year 11 months and 02 days including 01 year 06 months and 13 days after conviction and also including 04 months and 19 days of remission. In these circumstances, he prays for leniency for the petitioner from the Court.

9. The aforesaid fact regarding custody period of the petitioner has been fairly admitted by learned State counsel.

10. In view of the submissions of learned counsel for the petitioner, conviction of the petitioner under Sections 304-A, 338 and 279 IPC is upheld. The petitioner has already undergone 01 year 11 months and 02 days of his custody period, out of sentence of two years. The amount of compensation is to be recovered by the complainant and legal heir(s) of the deceased, in accordance with law, by adopting recourse of law. In other words, by filing the recovery proceedings.

11. The maximum punishment prescribed in the Indian Penal Code under Section 304-A IPC is two years. So, in these circumstances, sentence of imprisonment, awarded to the petitioner under Section 304-A IPC is hereby modified and he is ordered to undergo R.I. for 01 year and 11 months. All the other sentences would remain the same.

12. The present revision petition stands disposed of in the terms, as
afore-mentioned.
13. Pending applications, if any, shall stand disposed of along with
this judgment.

July 30, 2024
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>