

**CRR-2639-2009****-2-**

the death of the complainant's sister-in-law, Darshana Devi. After the collision, the bus driver i.e. petitioner fled the scene and despite efforts, no useful information regarding the whereabouts of the petitioner could be obtained from the passengers. Subsequent investigations, including mechanical examination of both the offending vehicles and after recording the statement of witnesses, led to the arrest of the petitioner Balbir Singh, who was then charged for his involvement in the accident in question. In support of its case, prosecution examined as many as 7 witnesses including the complainant Raj Singh.

3. During trial, when the accused was examined under Section 313 Cr.PC, he denied all the allegations and incriminating evidence appearing against him and claimed that he was innocent and falsely implicated in the case in hand.

4. Based on the evidence presented and other material on record, the trial Court convicted the petitioner under Section 304-A IPC vide judgment dated 09.03.2006. The appeal preferred to impugn the aforesaid judgment was dismissed by the Appellate Court vide judgment dated 30.09.2009, leading to the filing of present petition.

5. Learned counsel for the petitioner has, at the outset, fairly admitted that due to the concurrent findings of fact recorded by both trial Court as well as Appellate Court, he would not press the present petition on merits. Instead, learned counsel seeks to limit the prayer to the quantum of sentence only. Learned counsel has urged that the accident in question relates back to the year 1995 and the petitioner has endured the ordeal of prolonged criminal proceedings for nearly 29 years.

**CRR-2639-2009****-3-**

Furthermore, learned counsel has highlighted that the petitioner is leading a disciplined and law-abiding life since then and has not been involved in any other criminal case.

In the light of above circumstances, a prayer has been made by learned counsel for a lenient view be taken, advocating for the reduction in quantum of sentence awarded by the trial Court to the period already undergone. It is argued that sending the petitioner behind bars would serve no useful purpose after such a protracted period. In support of his prayer for reduction in quantum of sentence to the period already undergone, learned counsel has placed reliance on the decision of Hon'ble the Supreme Court in ***Sagar Loliengar vs. State of Goa and another, 2022 (1) SCC 161*** to contend that even in cases involving conviction under Section 304-A IPC, the substantive sentence of imprisonment can be reduced to the period already undergone as had been done in this case.

6. Learned State counsel has however, opposed the submissions and prayer made by the counsel opposite in view of the concurrent findings recorded against him by both the Courts below. It has, however, not been disputed that after the accident in question i.e. in the year 1995, the petitioner has been maintaining good conduct, and has not been involved in any other criminal case. Learned State counsel has also filed the custody certificate of the petitioner, which is taken on record; custody certificate also does not reflect the involvement of the petitioner in any other criminal case.

**CRR-2639-2009****-4-**

7. Heard learned counsel for the parties and perused the relevant material available on record.

8. In view of the fact that the accident in question pertains to the year 1995 and as not disputed by the State counsel, the petitioner has not been involved in any other criminal case and has rather indeed been leading a disciplined and law-abiding life, this Court does not deem it appropriate to send him behind bars at this juncture of life, more so, when he has admittedly been fastened with many liabilities.

9. It would be relevant to refer *Sagar Loliengar's case (supra)* wherein Hon'ble the Supreme Court reduced the quantum of sentence in following terms:

"14. In the instant case, the appellant has been found to be guilty of offences punishable under Sections 279 and 304A IPC for driving rashly and negligently on a public street and his act unfortunately resulted in the loss of the precious human life. But it is pertinent to note that there was no allegation against the appellant that at the time of accident, he was under the influence of liquor or any other substance impairing his driving skills. It was a rash and negligent act simplicitor and not a case of driving in an inebriated condition which is, undoubtedly despicable aggravated offence warranting stricter and harsher punishment."

10. Ends of justice would be thus, met if while maintaining the conviction of the petitioner his substantive sentence of one year is reduced to the period already undergone by him in the present case.



CRR-2639-2009

11. With this modification, the present petition stands disposed of.

10.05.2024
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No