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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No. 3071 of 2009(O&M)
Date of Decision: 13.03.2024

Bhupinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.C. Arora, Advocate
for the petitioner

Mr. Sandeep Singh, DAG Punjab

HARPREET SINGH BRAR, J. (ORAL)

1. This revision has been preferred against the judgment dated 30.10.2009 passed by learned Additional Sessions Judge, SAS Nagar Mohali whereby the judgment of conviction and order of sentence dated 17.09.2008 passed by learned Sub Divisional Judicial Magistrate, SAS Nagar Mohali in FIR No. 157 dated 09.05.2002 under Sections 304-A/279 IPC registered at Police Station Mohali has been upheld. The petitioner was sentenced as under:-

Offence under Section	Sentence
279 IPC	RI for three months
304-A IPC	RI for one year and fine of Rs. 1000/-, in default of which RI for 10 days

FACTUAL BACKGROUND

2. Briefly, the facts are that on 09.05.2002, a wireless message was received from police station Phase-1, Mohali at Police Post Phase II Mohali

regarding death of one Gurvinder Singh at P.G.I with CR. No. 282527 in some accident. One Attar Singh son of Joginder Singh, resident of Dhaulpur, Police Station, Batala made his statement before H.C. Sohan Singh on 09.05.2002. The complainant stated in his statement that he was on leave for one month being mechanic in Punjab Roadways Department. He came to village Daon to meet his son-in-law Gurvinder Singh. On 08.05.2002, he and his son-in-law Gurvinder Singh were proceeding from Phase II, Mohali to Chandigarh, on motor cycle No. PB-11M-2226. Gurvinder Singh, as referred above, was driving the above motor cycle and complainant Attar Singh was pillion rider on it. At about 9.15 p.m. when they reached at the crossing of Phase IX and X, a Bajaj Chetak Scooter bearing No. PB-27-7010 of white color being driven by a Sikh boy rashly and negligently at a fast speed without giving any dipper came there. That the scooterist struck the scooter against the motor cycle of the complainant and resultantly Gurvinder Singh sustained injuries on his head and face and complainant also received minor injuries in this accident. The name of the scooterist was ascertained as Bhupinder Singh son of Jagir Singh, resident of village Bari, Police Station Sohana thereafter. The scooterist slopped away by leaving his scooter at the place of accident. The complainant and Dalbir Singh arranged the removal of injured to Government Medical College and Hospital, Sector 32. Chandigarh where from he was referred to PGI Chandigarh. That Gurvinder Singh died at 8 a.m. in the morning. The accident in question causing death of Gurvinder Singh took place due to rash and negligent driving of Scooterist Bhupinder Singh. Head Constable Sohan Singh recorded the statement of complainant and made his endorsement thereupon, whereupon the FIR of this was registered at Police Station Mohali.

3. On assessing the material available on record, the learned trial Court vide judgment and dated 17.09.2008 convicted and sentenced the petitioner-accused as mentioned above. Aggrieved by the judgment of conviction, the petitioner-accused preferred an appeal before the learned lower Appellate Court which was dismissed vide judgment dated 30.10.2009.

CONTENTIONS

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 17.09.2008 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by petitioner as Bhupinder Singh has already undergone a period of 02 months and 16 days of custody. He further submits that since his conviction, he has not been involved in any other criminal activity.

5. Per contra, learned State counsel opposes the prayer of the petitioner 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 and as such, he does not deserve any leniency.

OBSERVATIONS AND ANALYSIS

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

7. 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.

8. A perusal of the judgment of conviction passed by the learned trial Court and the learned lower Appellate Court indicates no perversity in their findings and the same are based on correct appreciation of evidence available on record. Moreover, 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

9. The FIR in the present case was instituted on 09.05.2002. The petitioner has been facing protracted proceedings for almost 22 years and is not involved in any other criminal activity after his conviction in the present case and during the pendency of the present revision. Since his conviction, the

petitioner has grown into a law-abiding citizens and desire to live a peaceful life.

As per his custody certificate, he is not involved in any other case and has undergone more than two months of custody out of total sentence of 1 year in the instant case.

10. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence of rigorous imprisonment of 1 year awarded to the petitioner is reduced to the period already undergone by them.

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

(i) The judgment dated 30.10.2009 passed by the Additional Sessions Judge, SAS Nagar Mohali confirming the conviction of the petitioner is upheld, however, the order of sentence dated 17.09.2008 is modified to the extent that the sentence of rigorous imprisonment for 1 year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by them.

(ii) The sentence of fine of an amount of Rs. 1000/- imposed upon the petitioner 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.

(HARPREET SINGH BRAR)
JUDGE

March 13, 2024

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No