

240

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-42-2011 (O & M)
Date of Decision: 23.01.2024

Bijender Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Duhan, Advocate
for the petitioner.

Mr. Vikas Bharadwaj, AAG, Haryana

HARPREET SINGH BRAR, J. (ORAL)

This revision has been preferred against the judgment dated 20.12.2010 passed by learned Sessions Judge, Gurgaon vide which judgment of conviction and order of quantum of sentence dated 12.10.2010 passed by Judicial Magistrate Ist Class, Gurgaon in FIR No. 12 dated 04.01.2001 under Section 279, 304-A of the Indian Penal Code (hereinafter ‘IPC’). The petitioner was sentenced as under:-

Offence	Sentence
Section 304-A IPC	Rigorous imprisonment of 1 year along with a fine of Rs. 5000/-, in default of which rigorous imprisonment of 1 month.

FACTUAL BACKGROUND

2. Briefly, the facts are that on 03.01.2001, the petitioner, while reversing a Tata Sumo bearing registration no. HR-55-6105 in a rash and negligent manner, struck an old man named Raghunath Chaudhary, who

CRR-42-20112

succumbed to the injuries sustained in the accident on 07.01.2001 in Safdarjung Hospital, Delhi.

3. On the basis of the evidence led, the petitioner was convicted by the learned trial Court vide judgment dated 11.10.2010 and sentenced vide order dated 12.10.2010. Aggrieved by the same, the petitioner preferred an appeal before the lower Appellate Court, which was dismissed vide judgment dated 20.10.2010.

CONTENTIONS

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 11.10.2010 on merits and restricts his prayer to modification of the order of quantum of sentence dated 12.10.2010 to that of the sentence already undergone by the petitioner as he has already undergone a period of 2 months of custody. Furthermore, no other case is pending against him. He has reformed and intend to live his life as a law-abiding citizen.

5. Per contra, learned counsel for the respondent 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, as such, he does not deserve any leniency.

ANALYSIS AND OBSERVATIONS

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. 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.

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

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	20.12.2010 to 19.02.2011	2 months

3.	Interim bail	-	-
4.	Actual custody period after conviction	20.12.2010 to 19.02.2011	2 months
5.	Actual undergone period	20.12.2010 to 19.02.2011	2 months
6.	Earned remission	-	-
7.	Total sentence including remission	20.12.2010 to 19.02.2011	2 months

9. 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 only qua quantum of sentence.

CONCLUSION

10. The FIR in the present case was instituted on 04.01.2010. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. He is not involved in any other criminal activity after his conviction in the present case and during the pendency of the present revision. As per his custody certificate, there are no other criminal cases pending against them. Out of the total sentence awarded of 1 year, he has undergone actual sentence of 2 months. 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 him.

11. Consequently, judgment dated 20.12.2010 passed by the Additional Sessions Judge, Gurgaon confirming the conviction of the petitioner

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

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

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(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No