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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 1735 of 2015
Date of Decision: 05.02.2024

Surinder Singh
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present: Mr. Simranjit Singh, Advocate for
Mr. H.S. Dhandi, Advocate
for the petitioner

Mr. Sandeep Kumar, DAG, Punjab

HARPREET SINGH BRAR, J. (ORAL)

1. The instant revision petitions have been preferred against the judgment dated 28.04.2015 passed by learned Sessions Judge, Patiala whereby judgment dated 13.02.2014 passed by learned Judicial Magistrate Ist Class, Rajpura in FIR No. 85 dated 15.04.2008 under Section 279 and 304-A of the IPC. The petitioner was sentenced as under:-

Under Section	Sentence
279 IPC	SI for 6 months
304-A IPC	SI for one and half year and fine of Rs 500/- in default of which SI for 1 month

FACTUAL BACKGROUND

2. Briefly, the facts are that 14.04.2008, the petitioner was driving

truck bearing no. PB-12-B-5095 in a rash and negligent manner on the wrong side and hit the three wheeler bearing no. PB-11-AF-8718 being driven by Girdhari Lal. The three wheeler was damaged badly and Girdhari Lal succumbed to the injuries sustained soon after the accident.

3. Finding a *prima facie*, the petitioner was charged under Section 279, 304-A IPC, to which he pleaded not guilty and claimed trial. The prosecution examined as many as 10 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 claimed false implication. However, he did not examine any witness in his defence.

4. On assessing the material available on record, the learned trial Court vide judgment and dated 13.02.2014 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 28.04.2015.

CONTENTIONS

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 13.02.2014 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by petitioner has already undergone a period of 2 months 27 days of actual custody. He further submits that the sentence of petitioner was suspended by this Court vide order dated 20.07.2015. Since the suspension of his sentence, he has not been involved in any other criminal activity. Furthermore, no other case is pending against him. Learned counsel further submits that the petitioner has reformed and intend to live his life as law-

abiding citizen.

6. 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, 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 are tabulated as under:-

Sr No.	Particulars	Period	Duration
1.	Custody under trial	-	-
2.	Custody after conviction	28.04.2015-24.07.2015	2 months 27 days
3.	Interim bail	-	-
4.	Actual custody period after conviction	28.04.2015-24.07.2015	2 months 27 days
5.	Actual undergone period	28.04.2015-24.07.2015	2 months 27 days
6.	Earned remission	-	8 days
7.	Total sentence including remission	-	3 months 5 days

11. 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 to quantum of sentence qua the petitioner.

CONCLUSION

12. The FIR in the present case was lodged on 15.04.2008. Petitioner has been facing protracted proceedings for about 16 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, petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per there custody certificate, there are no other criminal cases pending against him. Out of the total sentence awarded of one and half year, the petitioner has already undergone a period of 2 months 27 days of actual custody Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence of simple imprisonment of one and half year awarded to the petitioner is reduced to the period already undergone by them.

13. Consequently, judgment dated 28.04.2015 passed by learned Sessions Judge, Patiala confirming the conviction of the petitioner is upheld, however, the order of sentence dated 13.02.2014 is modified to the extent that the sentence of simple imprisonment for one and half year awarded to the petitioner is reduced to the period of sentence already undergone by him.

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

(i) The judgment dated 28.04.2015 passed by the learned Sessions Judge, Patiala confirming the conviction of the petitioner is upheld, however, the order of sentence dated 13.02.2014 is modified to the extent that the sentence of simple 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. 500/- 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.

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

(HARPREET SINGH BRAR)
JUDGE

February 05, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No