

Date of decision: 19.03.2024

...PETITIONER

V/S

...RESPONDENT

Present: Mr. Navjot Narang and Himmat Vohra, Advocates
for Mr. S.P.S. Sidhu, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

This revision has been preferred against the judgment dated 18.02.2017 passed by learned Additional Sessions Judge, Moga, vide which, judgment of conviction and order of quantum of sentence dated 21.10.2015 passed by learned Additional Chief Judicial Magistrate, Moga in case bearing FIR No.100 dated 01.07.2010 registered under Sections 279, 304-A, 337, 338, 427 IPC at Police Station Sadar Moga, has been upheld. The petitioner was sentenced as under:

Offence	Sentence
Section 279 IPC	RI for 06 months
Section 304-A IPC	RI for 02 years with a fine of Rs.2000/-, in default of which to undergo 02 months

2. The FIR was registered on the allegations that on 01.07.2010, AS1 Bhupinder Singh alongwith other police officials was going towards village Ghal Kalan. Ratian, Dune Ke, Dhalle Ke in connection with police patrolling

and when the police party reached near Bus Stand Ghal Kalan, near Petrol Pump, Davinder Kumar got his statement recorded to the effect that he is doing a private job. On 30.06.2010, he was accompanying his friend Ranjit Singh and his brother Gurmeet Singh on Maruti Car bearing No. PB-03A-0108 and they were going towards village Dagru. As they crossed the canal minor near the Nestle Dairy, one truck came from the Ferozepur side in a zig zag manner, rashly and negligently driven and driver of the truck bearing No.RJ-14-11-5651 collided against their car. He along with Gurmeet Singh raised alarm. The driver of the truck disclosed his name as Baljit Singh (petitioner herein). They started taking care of Ranjit Singh but the driver in the meantime fled away from the spot. The *chowkidar* of Nestle came, who called up the police. He along with Ranjit Singh sustained injuries and they were hospitalized. Ranjit Singh however expired. The car had also got damaged. Accident had occurred due to rash and negligent driving of the driver of truck.

3. The appellant was convicted vide judgement dated 21.10.2015 passed by the learned trial Court, which has also been upheld by lower Appellate Court vide judgment dated 18.02.2017.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 21.10.2015 on merits and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioner, as he has already undergone a period of 01 year, 08 months and 26 days and is not 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 also been upheld by the learned lower Appellant Court and as such, he does not deserve

any leniency.

6. I have heard learned counsel for the parties and perused the record 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 indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Learned counsel for the

petitioner/appellant has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

9. The FIR in the present case was lodged on 01.07.2010 and the petitioner has been suffering the agony of protracted trial since the last 14 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone actual sentence of 01 year, 05 months and 06 days out of total sentence of 02 years in the instant case.

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

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

(i) The judgment dated 18.02.2017 passed by the learned Additional Sessions Judge, Moga affirming the judgment of conviction is upheld, however, the order of sentence dated 21.10.2015 is modified to the extent that the sentence of rigorous imprisonment for 02 years 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.2,000/- imposed upon the petitioner by the trial Court is increased to Rs.10,000/-. The petitioner is directed to deposit the 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.

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

March 19, 2024
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(HARPREET SINGH BRAR)
JUDGE

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