

**CRR-1471-2023 (O&M)****-1-****(237)****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR-1471-2023 (O&M)
Date of Decision: 17.05.2024****HARINDER SINGH****... Petitioner****Versus****STATE OF PUNJAB & ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Rajiv Vij, Advocate for
Mr. Bhupinder Singh Thind, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been preferred against the judgment dated 02.05.2023 passed by the Additional Sessions Judge, SAS Nagar, Mohali, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 11.09.2018 passed by Sub Divisional Judicial Magistrate, has been dismissed.

2. The brief facts of the case are that an FIR No.46 dated 29.04.2015 under Sections 279, 304-A IPC, P.S. Sadar Kharar came to be registered at the instance of Lakhvir Singh who stated that on 29.04.2015 he had gone on his scooter to Fatehgarh Sahib to pay obeisance. Thereafter, he was going to Mohali for personal work. At about 10.20 AM, when he reached Majat Bus Stand, a white colour car crossed him. The car was being driven in a rash and negligent manner. When he reached about 100 yards ahead of the

Majat Bus Stand, the driver of the car struck a motorcycle and the motorcyclist fell on the ground. He noticed that the motorcyclist was one Kaptan Singh son of Shital Singh a resident of his village. The motorcycle number was PB23-R-2270 and the car was bearing No.CH01-AC-9014. Many persons gathered at the spot. Kaptan Singh was sent to the Civil Hospital in a private vehicle. The accident had taken place due to the rash and negligent driving of the driver of the car who disclosed his name as Harinder Singh son of Hari Singh.

3. On conclusion of the investigation, the report under Section 173(2) Cr.P.C. was submitted against the petitioner and on culmination of Trial, he came was convicted and sentenced by the Court of Sub Divisional Judicial Magistrate, Kharar vide judgment dated 11.09.2018 as under:-

Sr. No.	Under Sections	Sentence	Fine	In default
1.	279 IPC	RI for 03 month	--	--
2.	304-A IPC	RI for 02 years	Rs.500/-	SI for 01 week

All the sentences were ordered to run concurrently.

4. The petitioner preferred an appeal before the Court of Additional Sessions Judge, SAS Nagar, Mohali and the said appeal came to be dismissed by the Court of Additional Sessions Judge, SAS Nagar, Mohali vide judgment dated 02.05.2023.

5. The aforementioned judgments are under challenge in the present petition.

6. The learned counsel for the petitioner contends that the Courts had misappreciated the evidence on record. In fact, PW2-Lakhvir Singh

**CRR-1471-2023 (O&M)****-3-**

(complainant) was not an eye-witness to the occurrence. The deposition of Mandeep Singh (photographer) who had appeared as PW-7 had not been considered in its proper perspective. In fact, the motorcycle had struck the rear end of the offending vehicle. There was no evidence that the petitioner was driving in a rash and negligent manner. He, therefore contends that the impugned judgments were liable to be set aside and the petitioner ought to be acquitted of the charges framed against him.

7. The learned State counsel contends that the offence was established beyond reasonable doubt. The prosecution witnesses were consistent in material particulars. The medical evidence was in consonance with the ocular account. The deposition of the complainant was clear and unequivocal that the petitioner was driving the car in a rash and negligent manner. He, therefore contends that there was no merit in the present petition and therefore, the same liable to be dismissed.

8. On the other hand, the learned counsel for the complainant contends that though offence has been established beyond reasonable doubt, however, the MACT vide its judgment dated 18.10.2016 had ordered payment of compensation of Rs.6,29,000/- along with 7% interest and the claimant No.1 being the widow has been awarded an amount of Rs.1,00,000/- towards loss of consortium. Therefore, he has no objection if the sentence of the petitioner is reduced to the period already undergone by him.

9. I have heard the learned counsel for the parties.

10. A perusal of the material on record would establish that the prosecution has proved its case beyond reasonable doubt. The complainant



CRR-1471-2023 (O&M)

-4-

has deposed clearly and unequivocally that the petitioner was driving the car in a rash and negligent manner. The medical evidence is totally in consonance with the ocular account. The identity of the petitioner has been established beyond any reasonable doubt. There is absolutely no evidence to suggest that either the complainant or the Investigating Officer was having any enmity with the petitioner so as to falsely implicate him.

11. In view of the aforementioned discussion, I find no infirmities in the well-reasoned judgments of the Trial Court and the Lower Appellate Court. Therefore, the present petition stands dismissed.

12. As regards the imposition of sentence, this Court in the case of **Gurmukh Singh Versus State of Punjab, CRR-2168-2014, decided on 13.12.2023**, held as under:-

“21. Thus two parallel threads are :

(a) Courts should normally avoid showing undue sympathy to the accused by imposing inadequate sentence as the same is harmful to the justice system; and

(b) The Supreme Court has repeatedly considered the fact that ordeal of facing pangs of prolonged trial needs to be considered while deciding adequacy of sentence in the matters pertaining to offence punishable under Section 304-A IPC. Where the accused has faced the prolonged trial running into more than a decade before it is finally concluded by the High Court or the Supreme Court and both the Courts found that the victim needs to be compensated adequately, the time spent in the lis by an accused and compensation to the victim can form relevant considerations for reduction in sentence.



CRR-1471-2023 (O&M)

-5-

22. *In the present case the present revision is pending consideration for last nine years. FIR relates to the year 2007. The petitioner was granted suspension of sentence on 27.10.2014 after he expressed his readiness to compensate the victim by paying Rs.1.00 lac. The aforesaid amount stands paid. The question is, having paid compensation as per the orders of this Court 9 years back, should the petitioner be asked to go back behind bars? It is in these mitigating circumstances that this Court finds it appropriate to follow the orders passed by Apex Court in K. Jagdish's case (supra) as the facts in the present case are almost similar to those before the Apex Court. I may hastenly add here that the petitioner is claimed to have paid compensation and neither the State nor the victim has agitated against the order passed by this court asking the petitioner to deposit compensation and granting him suspension of sentence.*

23. *The petitioner is a first time offender and has no past criminal record or antecedents. He is not reported to have ever misused concession of bail/suspension of sentence. He has undergone about 6 months out of substantive sentence of 1 year and has already faced protracted trial for last 16 years.*

24. *Taking into consideration all these facts cumulatively, the substantive sentence of 1 year awarded to the petitioner by the Courts below is reduced to the period already undergone by him.*

(emphasis supplied)

13. In the instant case, the FIR pertains to the year 2015. The petitioner has undergone one year of his substantial sentence of 02 years. A sum of Rs.6,29,000/- along with 7% interest and a further amount of Rs.1,00,000/- has been awarded to the claimants vide judgment dated

CRR-1471-2023 (O&M)

-6-

18.10.2016 passed by the MACT, Fatehgarh Sahib. Therefore, while upholding the conviction, I deem it appropriate to reduce the sentence of the petitioner as under:-

Sr. No.	Under Sections	Sentence	Fine	In default of payment of fine
1.	279 IPC	RI for 03 months	--	--
2.	304-A IPC	RI for 01 year	Rs.500/-	SI for 01 week

All the sentences shall run concurrently. However, the sentence in default of payment of fine shall remain intact.

17.05.2024

JITESH

(JASJIT SINGH BEDI)

JUDGE

Whether speaking/reasoned:-

Whether reportable:-

Yes/No

Yes/No