

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

263

CRR-2006-2023
Date of decision : 04.04.2024

Jaspal Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. This revision has been filed against the judgment dated 26.07.2023 passed by Sessions Judge, Gurdaspur whereby the judgment and order dated 23.02.2023 passed by the Judicial Magistrate 1st Class, Batala and conviction of the petitioner for offences punishable under Sections 279 IPC and 304-A IPC has been partly allowed and he has been sentenced for R.I. for 1 and a half year under Section 304-A of IPC and 06 months under Section 279 of IPC.

2. As per prosecution version on 28.05.2017 at about 8.30 p.m., complainant Avtar Singh and his daughter Amanpreet Kaur were returning to their house on foot. When they reached near the tube-well of one Sarabjit Singh, a motorcycle bearing No.PB-06-AB-0551 driven by the accused-petitioner came from the side of Ghoman at a very high speed with rash and negligent manner hit Amanpreet Kaur-daughter of the complainant, who fell down and received multiple injuries and later on

died.

3. Trial Court after appreciating the evidence on record, came to the conclusion that the prosecution has proved its case beyond doubt. Accident was caused on account of rash and negligent driving by petitioner and thus, convicted him for offences punishable under Section 304-A IPC read with Section 279 IPC.

4. The petitioner preferred an appeal before the lower Appellate Court. The learned appellate partly allowed the appeal and upheld the judgment of conviction. However, impugned order of sentence was modified and the sentence awarded to the accused-petitioner by the trial Court under Section 304-A of IPC was reduced to R.I. for 1 and a half year.

5. Counsel for the petitioner contends that in case, finding of conviction is being maintained, the act of the petitioner is of negligence and not intentional. He is a first time offender and sole bread earner of his family. He submits that apart from this case, there is no other case pending against the petitioner. Thus he prays that a lenient view be taken against the petitioner especially in the light of the fact that he is facing protracted trial for the last 07 years.

6. Learned State counsel submits that both the Courts below have rightly found petitioner guilty of offences punishable under Section 304-A IPC read with Section 279 IPC as it is a case wherein a precious life was lost in the accident. He further submits that the petitioner has undergone actual custody of more than 08 months and 11 days.

7. In support of his prayer, counsel for the petitioner relies upon *Jagdish Chander vs. State of Delhi* reported as *AIR 1973 2127* wherein the Apex Court taking in view the mitigating circumstances, reduced the sentence of imprisonment from six months to a period of three weeks of imprisonment already undergone by the accused. He further relies upon *Nand Ballabh Pant vs. State (Union Territory of Delhi)* reported as *AIR 1977 890* wherein the accused, convicted under Section 304-A of IPC, was sentenced to two months RI and the same was reduced by Supreme Court to one month and the fine was enhanced from Rs 500 to Rs 1,000.

8. Further reliance has been placed upon the orders passed by Coordinate Bench in *Criminal Revision No.843 of 1995 titled as Nirmal Singh @ Pappu Vs. State of Haryana* decided on 04.03.2008, wherein the sentence of convict under Section 304-A was reduced to already undergone. He further relies upon **CRR-1931-2010** decided on 23.07.2019 titled as '**Chander Bhan vs. State of Haryana**' wherein considering the factum of law laid down by Apex Court in **State of Punjab vs. Saurabh Bakshi** reported as **2015(2) RCR Criminal** this Court reduced the sentence to the period actually undergone.

9. I have heard learned counsel for the parties and have carefully gone through the record of the case. It is a case of rash and negligent driving by the petitioner. More so, the motorcycle was coming from the opposite side and hit the deceased. Consequently, no fault can be found with the findings recorded by the Courts below. Hence, conviction of the petitioner is upheld.

10. However, it can not be lost sight of the fact that he has already undergone actual sentence of more than 08 months and 11 days. He is a first time offender and. There is no case pending against him. He is stated to have never misused concession of bail suspension of sentence. He has already faced protracted trial for last 07 years. Considering all these facts cumulatively, sentence awarded by the Courts below is modified to already undergone.

11. Ordered accordingly.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

04.04.2024
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No