



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.1835 of 2024 (O&M)
Date of decision: 11th November, 2024

Malkiat Singh
... Petitioner
Versus
State of Haryana
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. DPS Bajwa, Advocate for the petitioner.
Mr. Yuvraj Shandilya, Asst. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioner has sought setting aside of the judgment of his conviction and order of sentence dated 24.07.2018 passed by the Court of learned Judicial Magistrate 1st Class, Narwana (Jind) as well as the judgment dated 05.09.2024 passed by learned Additional Sessions Judge, Jind vide which the conviction and sentence of the petitioner was upheld. The trial Court, vide its judgment dated 24.07.2018, sentenced the petitioner as follows:

Under Sections	Imprisonment sentence	of	Fine	Imprisonment in default of fine
279 IPC	Three months rigorous imprisonment		500/-	15 day rigorous imprisonment
304-A IPC	One year rigorous imprisonment		2500/-	15 days rigorous imprisonment

2. The case of the prosecution may be noticed as thus:

An FIR was lodged at the instance of Kashmiri Lal, nephew of the deceased (hereinafter referred to as, 'the complainant'). Complainant alleged that on 02.09.2014, around 10.00 a.m., he and his uncle, Trilok Chand (hereinafter referred to as, 'the deceased') were bicycling from their village Balerkhan towards Narwana, with the deceased riding approximately 25 steps behind. As they approached fields owned by one Rajender, a motorcycle, driven recklessly and negligently, collided with the deceased, causing fatal injuries. The deceased died at the spot.

3. Learned counsel for the petitioner has acknowledged that due to the concurrent findings of fact recorded by the courts below, he would not press this petition on the grounds of merit. Instead, learned counsel submits that he would limit his arguments solely on the quantum of sentence. The learned counsel has emphasized that the accident in question dates back to the year 2014, and that the petitioner has served 2 months and 6 days in custody out of the substantive sentence of 1 year; the petitioner has endured the hardship of prolonged criminal proceedings ever since his conviction on 24.07.2018. Additionally, it has been asserted that the petitioner has been leading a disciplined life ever since the accident in question and he has no previous criminal record.

4. In the light of the above circumstances, learned counsel for the petitioner prays that a lenient view be adopted by this Court, asserting that sending the petitioner behind bars would serve no useful purpose, more so when in the preceding 10 years, he has been fastened with many responsibilities. Learned counsel has relied upon the

judgment of Hon'ble Supreme Court in '**Sagar Lolienkar vs. State of Goa**', 2022 (1) SCC 161, where it was held that, even for convictions under Section 304-A IPC, the sentence of a convict can be reduced to the duration already served by him.

5. Per contra, learned State counsel has opposed the prayer and submissions made by the learned counsel for the petitioner by drawing the attention of this Court to the concurrent findings of guilt recorded by the lower courts. However, learned State counsel has not disputed that since the accident in question in the year 2014, the petitioner has maintained good conduct and has not been involved in any other criminal case. The custody certificate which has been placed on record today by the learned State counsel, also confirms that the petitioner has not been involved in any other criminal case after the accident in question.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. The accident in question occurred nearly a decade ago, and it is undisputed that the petitioner has since led a disciplined and law abiding life. Given these facts, this Court finds it inappropriate to send him behind bars at this juncture of life, particularly as the petitioner has endured the strain of a prolonged trial. In **Sagar Lolienkar's case (supra)**, the appellant was convicted under Section 279, 304-A of the IPC for causing death due to the rash and negligent driving on a public road. The Hon'ble Supreme Court noted that while this offence led to a tragic loss of life, it was a case of rash and negligent driving simpliciter, not aggravated by factors such as driving under the influence of alcohol. The Hon'ble Supreme Court acknowledged that drunken driving is an

aggravated circumstance warranting harsher penalties; however, in the absence of such circumstances the Hon'ble Supreme Court reduced the sentence of the appellant to the period already undergone by him.

8. Similarly, in the present case, there are no allegations of drunken driving against the petitioner. Therefore, the interest of justice would be adequately served by affirming the conviction of the petitioner for offences under Sections 279, 304-A of the IPC but reducing the substantive sentence of the petitioner to the period already undergone i.e. 2 months and 6 days.

9. However, fine impose on the petitioner is enhanced from ₹2,500/- to ₹30,000/- under Section 304-A IPC. It is made clear that in case of non-deposit of fine with the trial/successor Court within a period of 3 months from the date of this order, benefit of reduction of sentence shall not accrue to the petitioner and he will be required to undergo the remaining part of the sentence awarded to him. On deposit of fine, the trial/successor Court shall release the enhanced amount of fine to the legal representative(s) of the deceased, after informing them and against proper identification.

10. With the aforesaid modifications, the instant revision is disposed of.

(MANJARI NEHRU KAUL)
JUDGE

November 11, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No