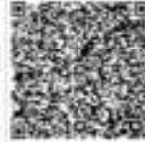


2024:PHHC:122951



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

SR. No.224

**CRR-2782-2022 (O&M)
Date of decision:06.09.2024**

Gaurav Sidhu

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. M.K. Bali, Advocate for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present revision petition against the impugned judgment 29.08.2022 passed by the Additional Sessions Judge, Jalandhar and the impugned judgment of conviction and order of sentence dated 08.03.2017 passed by the Judicial Magistrate 1st Class, Jalandhar, whereby, the petitioner had been convicted for the offence punishable under Sections 279/304-A/427 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of 02 years and to pay fine of Rs.5,000/- along with a default stipulation.

2. At the outset, learned counsel appearing on behalf of the petitioner submitted that he does not wish to challenge the judgment of

conviction, however, some leniency may be shown, while awarding the sentence to the petitioner. Even though, learned counsel for the petitioner has not challenged the judgment of conviction, still this Court is proceeding to examine the evidence in the present case in the light of the settled canons of law.

3. The FIR in the present case was registered on the basis of the statement made by Dalbir Singh. As per him, his brother Jaswant Singh (deceased) had retired from army and had applied for the job of Security Guard. On 05.05.2012, he along with his nephew, namely, Phulkamal Singh was going on their motorcycle to Jalandhar for some personal work. His brother Jaswant Singh (deceased) was also going on his motorcycle bearing Registration No.PB08-BM-9687 to Jalandhar to appear in an interview for the job of Security Guard. While returning from Jalandhar, he and his nephew met Jaswant Singh at Bus Stand of Jandusingha and thereafter both of them started for their village on their respective motorcycle. Jaswant Singh (deceased) was driving his own motorcycle ahead of them and complainant and his nephew were following him on the other motorcycle. When they reached village Udesiyan, near the petrol pump, one Accent car bearing registration No.PB10-AY-6077 came from the front side on a very high speed in a rash and negligent manner and without blowing any horn, it struck into the motorcycle of Jaswant Singh, due to which, Jaswant Singh fell down on the road and was badly injured and his motorcycle was totally damaged. After arranging the vehicle, Jaswant Singh was taken to Civil Hospital, Adampur, whereas he was declared brought dead. The accident in the present case had taken place due to rash and negligent driving by the

driver of the Accent car, bearing registration No. PB10-AY-6077. The driver of the said Accent Car was known as Gaurav Sidhu son of Surinder Singh.

4. After completion of the investigation, the final report under Section 173 Cr.P.C. was presented before the Court. The charges under Sections 279/304-A/427 IPC were framed against the petitioner and he pleaded not guilty and claimed trial.

5. In support of the charge, the prosecution examined four witnesses, namely, Phulkamal Singh as PW-1, Jarnail Singh as PW-2, Dalbir Singh as PW-3 (complainant) and Dr. Hardev Singh, MS Ortho Medical Officer, Civil Hospital, Jalandhar as PW-4. After examining the witnesses, the evidence was closed in the present case.

6. After the closure of prosecution evidence, all the incriminating material was put to the accused in the shape of his statement under Section 313 Cr.P.C. The petitioner had denied all the allegations and pleaded his false implication in the case. The accused opted to lead defence evidence and examined Baldev Raj as DW-1, Gurpreet as DW-2 and Baljit Kumar as DW-3.

7. In support of the charge, the prosecution had examined complainant Dalbir Singh as PW-3, who had reiterated the averments made in the FIR. The testimony of PW-3 Dalbir Singh was duly supported by PW-1 Phulkamal Singh and he also supported the prosecution version. In order to prove the investigation process, the prosecution examined Jarnail Singh as PW-2, who proved his statement Ex.PB and receipt of dead body as Ex.PA. The statements of witnesses were duly corroborated by the testimony of PW-4 Dr. Hardev Singh, who had conducted the post-mortem examination on the dead body of Jaswant Singh and had exhibited the post-mortem report as

Ex.PW4/A. As per his deposition, the cause of death in the present case was due to shock and haemorrhage as a result of injuries to vital organs of the body, i.e. brain and lungs which was sufficient to cause death in ordinary course of nature.

8. The accused/petitioner examined Baldev Singh as DW-1, who stated that the Accent Car was parked near the petrol pump on the left side on the Kacha Path and the petitioner was sitting in that car. In the meantime, one person, who was driving his motorcycle in a very rash and negligent manner came from the side of Jalandhar and had hit the car. Ultimately the driver of the car was badly injured and later on he had expired. The statement of DW-1 was duly supported by the testimonies of DW-2 Gurpreet and DW-3 Baljit Kumar.

9. I have carefully perused the evidence led by both the sides as well as the findings recorded by the courts below.

10. In the present case, no doubt, Dalbir Singh, PW-3 and Phulkamal Singh, PW-1 were closely related to Jaswant Singh, deceased, however, both the witnesses had submitted the version given by them to the police immediately after the occurrence. Both the witnesses have been searchingly cross-examined and this Court finds no reason to discard their testimonies. Even the accused had examined three witnesses and alleged his false implication in the present case. However, no reason has been assigned as to why he was falsely involved in the present case. Apart from that, there was no personal enmity between the prosecution witnesses and the accused and both the prosecution witnesses had no reason to falsely involve the petitioner in the present case. Further, the testimonies of PW-1 Phulkamal and PW-3 Dalbir Singh were duly corroborated by the statement of PW-4 Dr.

Hardev Singh, who was examined by the prosecution to prove the post-mortem report ExPW4/A and it was apparent that the injuries had been suffered by the deceased in the accident caused by the petitioner.

11. Even otherwise, this Court has carefully perused the findings recorded by both the courts below and could not find any illegality or perversity in both the impugned judgments. Both the courts below have properly appreciated the evidence and had held discussion in detail on the evidence led by the prosecution as well as defence. Thus, the impugned judgment of conviction is ordered to be upheld.

12. Now adverting to the sentence, the petitioner has been sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs. 5,000/-. During the course of hearing, the learned State counsel has placed on record a custody certificate, which shows that the present petitioner has already undergone more than 01 year and 09 months of sentence out of total sentence of 02 years. This Court is also conscious of the fact that the petitioner is facing the agony of trial/appeal for the last ore than 12 years. The petitioner is stated to be sole bread winner of his family. Further, he has been facing the agony of trial/appeal for the last more than 12 years and no purpose would be served by sending him behind bars, at this stage. Thus, in view of the facts and circumstances of the case, the ends of justice would be suitably met, if his substantive sentence is reduced to the one already undergone by him.

13. Keeping in view the above discussion, the judgments of conviction passed by the courts below are upheld, however, order of sentence dated 08.03.2017 is modified to the extent that the substantive sentence of imprisonment awarded by the courts below is reduced to the

period already undergone by the petitioner. The petitioner may be released forthwith from the custody, if not on bail and if not required in any other case.

14. With the above modification, the present appeal stands disposed of, in the above terms. Pending application(s), if any, shall also stand disposed of, accordingly.

06.09.2024
mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned:	YES / NO
Whether Reportable:	YES / NO

No specific road was assigned to him investigation