



CRR-2681-2023

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2681-2023
Reserved on: 16.12.2024
Pronounced on: 19.12.2024

Gamdoor Singh ... Petitioner

VS.

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kanwaljeet Singh Brar, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
85	28.06.2017	Sadar Kotkapura	304A, 279, 337 & 427 IPC

Case No.	CHI Case No.19 dated 22.02.2018 CIS No.73/2018 CNR No.PBFD03-000413-2018 Date of decision: 11.06.2019
Names of accused/ convicts/ appellant	Gamdoor Singh
Conviction under sections	304-A, 279 r/w 337 IPC
Sentence imposed	Substantive sentence for 02 years

Criminal Appeal No.	Criminal Appeal No.RT78 dated 03.09.2022/10.07.2019 Date of decision: 20.01.2023
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1. The petitioner, who stands convicted for the commission of an offense punishable under Section 304-A, 279 r/w 337 IPC, had come up before this Court by filing the present revision petition.
2. Facts of the case are being taken from the order dated 20.01.2023 passed by the Sessions Judge, Faridkot, which reads as under:-

“Perusal of the trial Court record reveals that on 28.6.2017, on receipt of

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telephonic message from Police Station City Faridkot, regarding admission of injured in Medical Hospital, Faridkot, and death of Gurpreet Singh son of Kala Singh, resident of Sakka Wali, due to receipt of injuries in road side accident, PW9 ASI Gurjant Singh along with other police officials, after obtaining medical ruga from Police Station City Faridkot, reached Medical Hospital, Faridkot, where PW3 complainant Kala Singh met PW9 ASI Gurjant Singh and got recorded his statement PW3/A to the effect that he is a labourer by profession. His son Gurpreet Singh was married to Sukhjinder Kaur daughter of Gurdeep Singh, resident of Jiwan Nagar, Kotkapura, about 10 months ago and his son had received a motorcycle bearing registration No.PB04-Y-0284 silver coloured by way of gift in marriage. On 27.06.2017, he (complainant) and his cousin Kuldeep Singh son of his maternal uncle Banta Singh, on a motorcycle, belonging to said Kuldeep Singh and his son Gurpreet Singh and his wife Sukhjinder Kaur on their separate motorcycle had come to the in-laws house of his son Gurpreet Singh in connection with a piece of work and they departed therefrom at about 6:00 PM on their respective motorcycles towards village Sakka Wali. The motor cycle driven by his son Gurpreet Singh was ahead of them. Kuldeep Singh was driving his motor cycle and he (complainant) was on his pillion seat. When they crossed the bus stand of village Warra Daraka, a vehicle make Bolero, of Baba Milk, bearing registration No.PB-04M. 9603 was going ahead of the motorcycle being driven by his son Gurpreet Singh. When Gurpreet Singh, near link road to village Wander Jatana, tried to overtake the vehicle Bolero, it was about 6:30 PM, driver of the said Bolero vehicle without giving any indicator, without blowing any horn, in rash and negligent manner, all of a sudden, turned his vehicle towards the link road to village Wander Jatana and the front tyre, mudguard and bumper of the driver side of vehicle Bolero hit the motorcycle being driven by his son Gurpreet Singh, whereby his son lost control and motorcycle hit the milestone installed at the side of the road, reflecting direction to village Wander Jatana, due to which his son Gurpreet Singh and his daughter-in-law Sukhjinder Kaur along with motorcycle fell down. The driver of the vehicle Bolero after stopping the same on the link road towards village Wander Jatana, alighted and came to them. When inquired about his identity, he disclosed the same as Gamdoor Singh son of Natha Singh, resident of Teacher Colony, Street No.5 (R) Faridkot. They saw that his son Gurpreet Singh had suffered injuries upon his head, left leg and other parts of the body and blood was oozing out of his head. Sukhjinder Kaur suffered

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injuries near her left ear, right foot, back and other parts of the body. They started looking after his son Gurpreet Singh and daughter-in-law Sukhjinder Kaur. The people gathered at the spot. The driver of the offending vehicle Bolero along with vehicle fled away from the spot secretly. Within a short time, an ambulance reached there and they picked up his son Gurpreet Singh and his daughter-in-law PW2 Sukhjinder Kaur to shift to the hospital and on the way, his son Gurpreet Singh succumbed to the injuries. He got his daughter-in-law Sukhjinder Kaur admitted in the GGS Medical College and Hospital, Faridkot and dead body of Gurpreet Singh was kept in Medical Hospital, Faridkot. Due to the accident, motorcycle being driven by his son Gurpreet Singh was also badly damaged. He started informing his relatives about the death of his son Gurpreet Singh and remained busy in ensuring treatment to his daughter-in-law Sukhjinder Kaur. The accident had taken place due to the rash and negligent driving of the offending vehicle i.e. Bolero by Gamdoor Singh, so, legal action be taken against him.”

3. Vide judgment dated 11.06.2019, the trial Court convicted the petitioner and sentenced him as under:-

Offence u/s	Imprisonment	Fine	In default of payment of fine
304-A IPC	Rigorous imprisonment for two years (2 years)	Rs.1,000/-	Rigorous imprisonment for 60 days
279 IPC	Rigorous imprisonment for six months (six months)	-	-
337 IPC	Rigorous imprisonment for six months (six months)	-	-

4. Feeling aggrieved, the petitioner filed a criminal appeal before the Sessions Court, challenging his conviction and sentence. However, vide judgment dated 20.01.2023, the appeal was dismissed.

5. After that, the petitioner came up before this Court by filing the present criminal revision petition under Section 401 CrPC, 1973.

6. On 16.12.2024, the petitioner's counsel had submitted that he had gone through the evidence and, in his opinion, it would be in the interest of his client if he confines his arguments to the sentence reduction, and since he was not arguing on merits, this should be considered as an addition factor to reduce the sentence.

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7. Counsel for the convict submitted that the petitioner has already served around 01 year, 09 months & 08 days of custody out of the sentence awarded i.e. 02 years.

8. I have heard learned counsel for the parties and reviewed the record, and its analysis would lead to the following outcome.

9. I have also reviewed the judgment passed by the trial Court, and I do not find any infirmity in it because the petitioner has been convicted. The evidence is legally tenable, and I do not find any fault in the conviction.

10. Given above, the judgment passed by the trial Court and affirmed by the Sessions Court do not call for any interference regarding the conviction.

11. However, this Court would consider the sentence reduction on the petitioner's above statement. As per the custody certificate dated 14.12.2024, the petitioner had undergone total custody of 01 year, 09 months & 08 days of custody out of 02 years imprisonment awarded to him.

12. The petitioner's counsel has referred to the following mitigating factors based on which he pleads that the sentence be reduced to already undergone:

"That following are the mitigating circumstances of the above said case:

1. That the petitioner is facing the agony of the trial since the registration of the FIR i.e. for the last about 8 years.

ii. That there is no member in the family to look after the ailing wife of the petitioner and there is no source of livelihood petitioner.

iii. That petitioner have been acquitted in the section 427 of IPC and there are material discrepancies in between the statement of the prosecution witnesses.

iv. That there is no eye witness of the above said case and there is delay and registration of the FIR.

v. That the petitioner was not at the fault and was not driving of the vehicle in rash and negligent manner and it was the deceased Singh Kala who tried to overtake the offending vehicle and hit in the frontside of the offending vehicle.

vi. That it is relevant to mention here that no test identification prade of the

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accused was conducted.

3. That the petitioner is not capacity to pay Rs. 3,00,000/- as already the claimants of the deceased have received a compensation in MACT Case.”

13. When a convict does not challenge his conviction on merits but confines only to sentence reduction, it saves the Court’s valuable time scrutinizing the evidence. On the other hand, it also helps the complainant and the prosecution because the conviction is not disturbed, and only sentence reduction is sought, and it would certainly be a mitigating factor.

14. Given the above, in the facts and circumstances peculiar to this case, the present criminal revision petition is partly allowed to the extent that the fine, if deposited, shall remain as it is, the fine, if not deposited, is waived, and the sentence of imprisonment is reduced to already undergone.

The petition is allowed in the terms mentioned above. All pending application(s), if any, stand closed.

(ANOOP CHITKARA)
JUDGE

19.12.2024
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Whether speaking/reasoned: Yes
Whether reportable: Yes