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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-276-2024 (O & M)
Date of decision: 04.02.2025

BANSI LAL

V/S

...PETITIONER

STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Parvesh Jaglan, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 18.01.2024 passed by learned Sessions Judge, Fatehabad, vide which, judgment of conviction dated 16.04.2018 and order on quantum of sentence dated 18.04.2018 passed by learned Chief Judicial Magistrate, Fatehabad in case bearing FIR No.127 dated 02.03.2015 registered under Sections 279/337/304-A IPC at Police Station Sadar, Fatehabad have been upheld.
2. The petitioner was sentenced as under:

Offence	Sentence
279 IPC	RI for 03 months.
337 IPC	SI for 03 months.
304-A IPC	SI for 01 year.
It was ordered that all the sentences shall run concurrently.	

3. Briefly stated, the present case was registered on the statement of complainant Ravish Malhotra to the effect that on 01.03.2015, he, his father



Ashwani Malhotra, mother Neelam Malhotra and friend Amit Kumar son of Daulat Ram, resident of Chori Gali, Budhlada, after sitting in their car Swift Dezire bearing registration no.HR-16G/6767 and after paying worship in Salasar, were going to their house. The vehicle was being driven by his friend Amit. When they reached near Dhani Chanchak, Fatehabad, one vehicle Max bearing registration no.PB-13V/5473, the name of the driver not known, came from behind at a high speed and in a rash and negligent manner and struck against him in the conductor side. Due to this collision, the vehicle became imbalanced and after moving it, turned round and struck against safeda trees. This was the incident of 06.30 P.M. The offending vehicle was also turned down near the road. They cried *mar dia-mar dia*, then the passengers took them out and after arranging a vehicle, got them admitted in the hospital at Fatehabad, where his mother Neelam was declared dead. They three persons were given first aid and his father Ashwani Malhotra was referred to another hospital at Mansa. The number of the vehicle came to be known as PB-13V/5473. Hence, the FIR (*supra*) was registered.

4. The petitioner was convicted and sentenced vide judgment and order dated 16/18.04.2018 passed by learned trial Court, which have also been upheld by learned lower Appellate Court vide judgment dated 18.01.2024.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 18.01.2024 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. He submits that in compliance of the order passed by this Court on 02.04.2024, the amount of Rs.2,00,000/- has been deposited with learned Chief Judicial Magistrate, Fatehabad on 08.04.2024 and he has no objection in case, the said amount be



released in favour of the legal heir of the deceased, namely, Ashwani Malhotra, who is husband of the deceased, namely, Neelam Malhotra. Petitioner has undergone a total custody period of 03 months and 22 days, including remission and is not involved in any other case.

6. *Per contra*, learned State counsel opposes the prayer of the petitioner as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, which has also been upheld by the learned lower Appellate Court and as such, he does not deserve any leniency. As per the custody certificate of the petitioner, he is not involved in any other case.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. In ***Deo Narain Mandal v. State of UP (2004) 7 SCC 257***, a Three Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala v. State of AP AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the



accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, learned counsel for the petitioner has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua modification of quantum of sentence.

10. The FIR in the present case was lodged on 02.03.2015 and the petitioner has been suffering the agony of protracted trial for last 10 years. Since his conviction, the petitioner has grown into law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone total sentence of 03 months and 22 days, including remission out of total sentence of one year, in the instant case.

11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioner is reduced to the period already undergone by him.

12. Consequently, the present petition is disposed of and the judgment dated 18.01.2024 passed by the learned Sessions Judge, Fatehabad, affirming the judgment of conviction is upheld, however, the order of sentence dated 18.04.2018 is modified to the extent that the sentence of simple



imprisonment for one year awarded to the petitioner is reduced to the period of sentence already undergone by him. However, the amount of Rs.2,00,000/- deposited with learned Chief Judicial Magistrate, Fatehabad at the time of interim bail of the petitioner, is ordered to be released in favour of the legal heir of the deceased, namely, Ashwani Malhotra, who is husband of the deceased, namely, Neelam Malhotra, after issuing notice to him, against proper receipt and identification.

13. Pending miscellaneous application(s), if any, also stand(s) disposed of.

February 04, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |