



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

249

CRR-547-2020 (O&M)

Date of decision: 18.11.2025

Tilak Raj

...Petitioner(s)

VERSUS

State of Haryana

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Chetan Kapoor, Advocate for the petitioner
(through V.C.).

Mr. Vivek Chauhan, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. The instant criminal revision has been preferred against the judgment of conviction and order of sentence dated 10.06.2016 passed by the learned Sub-Divisional Judicial Magistrate, Shahabad, whereby the revisionist-petitioner had been convicted for commission of offences punishable under Sections 279 and 304-A of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") in case bearing FIR No. 93 dated 14.11.2014 registered under Sections 279/304-A IPC at Police Station Babain, District Kurukshetra, as well as judgment dated 06.01.2020 passed by the learned Additional Sessions Judge, Kurukshetra, vide which appeal filed by the revisionist-petitioner has been dismissed. The revisionist-



petitioner has been sentenced as under:-

Under Section	Sentence
279 I.P.C.	Simple imprisonment for 06 months and fine of Rs.1000/- and in default thereof to further undergo simple imprisonment for a period of 01 month.
304-A I.P.C.	Simple imprisonment for 02 years and fine of Rs.1000/- and in default thereof to further undergo simple imprisonment for a period of 01 month.

Both the sentences were ordered to run concurrently.

2. The FIR No. 93 dated 14.11.2014 had been registered at the instance of Gurmeet Singh, the son of deceased-Dharam Pal. Briefly stated, the facts of the case are that on 14.11.2014, complainant Gurmeet Singh alongwith his father Dharam Pal were returning from village Kharindwa to their village on their separate motor-cycles. At about 10:00 A.M, a truck bearing registration no. PB-11BN-4025, being driven rashly, negligently and at a high speed came from Babain side and directly hit the motor-cycle bearing registration No.HR-05-5493 being driven by Dharampal. Due to this collision, Dharampal fell down and when the complainant was attending to his father, the driver of the truck ran away from the spot with his truck. The complainant arranged a private vehicle and took his father to PHC Babain, where the doctor, after giving first aid to his father, referred him to LNJP Hospital, Kurukshetra. However, unfortunately on the way to LNJP Hospital, Dharampal died due to the injuries sustained by him in the accident and the doctors of LNJP Hospital, Kurukshetra declared Dharampal brought



dead.

3. On the basis of aforesaid complaint, FIR in the present case was registered and investigation was conducted. The spot was inspected; rough site plan prepared; statements of the witnesses were recorded; post-mortem on the dead body of deceased was got conducted; vehicles involved in the accident and various documents were taken into police possession.

4. On 16.12.2014, the revisionist-petitioner was arrested and after completion of investigation, final report under Section 173 Cr.P.C. was filed in the Court and documents were supplied to the accused-petitioner free of costs.

5. Finding a prima facie case having been made out, the petitioner was charge-sheeted for the commission of offences punishable under Sections 279 and 304-A IPC and the contents of the same were read over and explained to the accused, to which he pleaded not guilty and claimed trial.

6. In order to substantiate its case, the prosecution examined the following nine witnesses:

PW-1	Mann Singh, Contractor
PW-2	SI Shadi Ram
PW-3	ASI Surjit Singh, Investigating Officer
PW-4	Gurmit Singh, Complainant
PW-5	Dr. Shailja Goel, M.O. LNJP Hospital, Kurukshetra
PW-6	Constable Kuldeep Singh



PW-7	Rajo Bai, Jr. Assistant, DTO Office, Patiala
PW-8	Dilbag Singh
PW-9	ASI Mool Chand

7. PW1, Maan Singh deposed that on 14.11.2014, police took into possession the accidental motor-cycle with its RC vide recovery memo Ex.PW1/A. He also received the dead body of deceased Dharampal vide receipt Ex.PW1/B.

8. Further, PW2 SI Shadi Ram deposed about registration of FIR Ex.PW2/A vide endorsement Ex.PW2/B.

9. Further, PW3 ASI Surjit Singh- Investigating Officer, proved the investigation conducted by him. He also proved the documents i.e. statement of complainant Ex.PW3/A; police proceedings Ex.PW3/B; proceedings under Section 174 Cr.P.C. Ex.PW3/C; application Ex.PW3/D; receipt dead body Ex.PW1/B; rough site plan Ex.PW3/C; recovery memo Ex.PW1/A; application Ex.PW3/F; record of DTO office Ex.P1; recovery memo Ex.PW3/G. He also deposed that after completion of the investigation, report under Section 173 Cr.P.C was prepared by SI/SHO Dalip Kumar.

10. Further, PW4 Gurmeet Singh, complainant narrated the facts of his complaint Ex.PW3/A made before the police.

11. PW5 Dr. Shailja Goel tendered in evidence her duly sworn and attested affidavit as Ex.PW5/A. She also deposed that she had prepared post-mortem report Ex.PW5/B and Dr. Deepali also sent ruqa Ex.PW5/C.



12. Further, PW6 Constable Kuldeep Singh deposed on the same lines as deposed by PW3 ASI Surjeet Singh. Further, PW7 Rajobai stated that on 17.11.2014, on moving an application by the police, attested copy Ex.P1 of RC of vehicle bearing registration No.PB11BN-4025 was handed to the police.

13. Further, PW8 Dilbag Singh deposed that on 16.12.2014 he had moved an application Ex.PW8/A for taking the said truck on superdari and vide superdarinama Ex.PW8/B, he got the said truck released on superdari.

14. Further, PW9 ASI Mool Chand deposed about conducting mechanical examination of both the accidental vehicles and preparation of his reports Ex.PW9/A & Ex.PW9/B.

15. No other prosecution witness/evidence was examined or produced. The prosecution evidence was thereafter closed.

16. The statement of the petitioner was recorded under Section 313 of the Code of Criminal Procedure, wherein all incriminating circumstances and evidence appearing on record were put to him. The petitioner denied the allegations in its entirety, describing the prosecution case and evidence as false and fabricated, and asserted his innocence. No defence evidence/witness was produced by petitioner during his defence evidence.

17. After considering the arguments advanced by the counsels of the parties, the testimonies of witnesses, and the evidence placed on record, the learned Sub-Judicial Magistrate, Shahbad, vide judgment and order of quantum of sentence dated 10.06.2016, held the petitioner guilty of offences punishable under Sections 279 and 304-A of IPC.



249

CRR-547-2020 (O&M)

18. Aggrieved by the aforesaid judgment of conviction and sentence, the petitioner preferred Criminal Appeal No. 181 of 2016 before the Court of the learned Additional Sessions Judge, Kurukshetra. However, vide judgment dated 06.01.2020, the learned Additional Sessions Judge, Kurukshetra, dismissed the aforesaid appeal and consequently affirmed the judgment of conviction and order of quantum of sentence dated 10.06.2016 passed by the learned Sub-Judicial Magistrate, Shahbad. Hence, aggrieved by the said judgment of conviction and order of quantum of sentence dated 10.06.2016 and judgment dated 06.01.2020, the present revision petition has been preferred.

19. After arguing the matter at some length, counsel for the revisionist-petitioner submits that vide order dated 30.07.2020 passed by this Court, after undergoing an actual period of sentence of 06 months and 24 days, the remaining sentence of the petitioner was suspended. He contends that he does not press the present revision petition on merits and would confine his challenge only to the quantum of punishment awarded to the petitioner. The following mitigating circumstances have been pointed out by the learned counsel for the petitioner:

- (i) That the unfortunate incident in question occurred in November 2014, and more than eleven years have since elapsed. At the time of the incident, the petitioner was approximately 38 years old and prior to the above accident or since then he has not been involved in any other offence or criminal activity.



- (ii) That the incident in question was unfortunate and purely an accidental occurrence, having taken place without any intention or overt act on the part of the petitioner.
- (iii) That the petitioner has endured the ordeal of a prolonged criminal trial spanning over a period of eleven years.
- (iv) That the petitioner is the sole earning member of his family. The prolonged incarceration of the petitioner has already caused severe hardship to his family members. Furthermore, the small business which was being run by the petitioner and which was his family's only source of livelihood, has also suffered significant losses during his confinement.
- (v) That the family of the deceased has already received compensation in proceedings before the Motor Accident Claims Tribunal (MACT).

20. The learned State counsel, on the other hand, contends that both the learned Courts below have examined the evidence brought on record and concurrently recorded a finding of conviction against the petitioner. It has been further submitted that in a revisional jurisdiction, neither new line of defence can be adopted nor any re-appreciation of the evidence can be undertaken. The learned State counsel submits that there is no illegality or perversity that has been pointed out by the petitioner in the instant case and, hence, there is no occasion that would call for upsetting the findings recorded or the sentence awarded and affirmed by both the learned Courts below.



249

CRR-547-2020 (O&M)

21. I have heard learned counsel for the parties and have gone through the impugned judgments.

22. Since the petitioner has given up the challenge to the judgment of conviction on merits, hence, the said issues are not being gone into at this stage. The discussion is thus restricted solely to the issue of sentencing and quantum of punishment.

23. The purpose of sentencing being both deterrent as well as reformatory, hence, while sentencing of an accused factors, such as psychological and sociological circumstances of an accused; the gravity, nature and manner of committing the offence; the consequences, the social reaction of the offence; the antecedents and tendencies of an accused should be taken into consideration.

24. In the present case, there is nothing on record to reflect that the petitioner possesses a criminal bent of mind or that his conduct poses any threat to the society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against the revisionist-petitioner.

25. The imposition of punishment is a refined judicial function that demands a careful harmonization of its underlying purposes namely, retribution, deterrence, and reformation. This balance must reflect not only the reasoning of the Court but also the ethical standards and social context in which justice is administered. As societal values and circumstances evolve, the prominence accorded to each of these aims necessarily varies, requiring the Court to adapt its emphasis in response to the changing demands of



justice. The aforesaid principle found early articulation in the writings of Justice Caldwell, who, in his authoritative work “Criminology,” observed that:

“If the infliction of pain is to have its greatest effect upon the behavior of a person, it must follow soon after the act for which it is given. But punishment always takes place weeks or even months after the offense has been committed, since the offender must first be apprehended, tried, and convicted. Such delay tends to disconnect the punishment from the offense in the mind of the offender, and it may well be considered as merely another painful experience in an unjust world.”

26. Moreover, Italian criminologist and jurist Cesare Beccaria, in his seminal treatise “On Crimes and Punishments,” propounded the doctrine of penal parsimony, emphasizing that the justification of any criminal justice system rests upon its capacity to inflict the least possible evil necessary to achieve its ends. The underlying premise is that punishment, being in itself a necessary evil and devoid of inherent virtue, must be confined strictly within the bounds of necessity. The imposition of suffering or restriction upon an offender cannot extend beyond what is indispensable for the preservation of social order.

27. While ‘retributive’ object of sentencing is seen regressive in modern day sentencing jurisprudence for its focus on punishing proportionally for the harm done and caters to the negative senses of spite and anger against a wrongful act, the rehabilitative/reformative approach



examines the circumstances surrounding the offender on social, economic, physical and psychological level so as to reintegrate the offender in the social mainstream. The law extends the benefit of good and perceives a probability and possibility of reform. It aims at capitalising a perceived social liability. The expectation of law is based on the surrounding circumstances to distinguish between a 'criminal' and an 'offender'.

28. While the pre-requisites of crime do not distinguish two persons, on the legal scale, this aspect is significant for sentencing. A mere involvement of a person in crime may not necessarily mark a person as a 'criminal.' 'Criminality' in mind and action has to be determined from the totality of circumstances including the mode and manner in committing an offence, the conduct pre and post the offence, the criminal antecedents, nature of involvement, influence of peers etc. and not just from an isolatory consideration of commission of an offence. A Court of law would not assume every offender to be beyond reform and differentiate in punishment on considering whether the offences arise due to human error or that stem from actions propelled by *mens rea*.

29. The instant case at hand is yet another example where interest of justice would warrant a reformatory approach in precedence to a punitive or retributive approach. It is not the function of the judges to seek the transformation of human nature itself, but rather to shape the framework within which individuals perceive that adherence to the law aligns with their own best interests.

30. In **Deo Narain Mandal v. State of UP** reported as (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** reported as **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. In order to determine the quantum of sentence, Courts should bear in mind the principle of proportionality as awarding punishment is not merely retributive but also reformative.

31. Adverting to the facts of the present case and the mitigating



circumstances pointed out by counsel for the petitioner establish that petitioner is a first-time offender with no criminal antecedents. He has undisputedly faced agony of criminal trial for more than 11 years. He is now nearing 50 years of age. He is also the sole bread earner of his family comprising of wife and 03 children. The petitioner was also not driving under influence of any substance. He is not stated to be involved in any other case. Besides, he has already undergone an actual custody of nearly 7 months out of the total sentence of 2 years. Besides, compensation of more than Rs.10 lakh had already been awarded to the family of deceased.

32. Taking into consideration the aforesaid facts and circumstances, the criminal revision petition is ***partly allowed*** and the sentence awarded is reduced to that ***already undergone*** by the revisionist-petitioner.

33. Pending criminal misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

18.11.2025

Mangal Singh

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