

**CRR-229-2011 (O&M)****-1-****239 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRR-229-2011 (O&M)
Date of Decision: 19.02.2025****SUKHRAJ SINGH****...Petitioner****V/S****STATE OF PUNJAB****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present: Mr. Ashish Gupta, Advocate
for the petitioner.****Mr. Nitesh Sharma, DAG Punja.************HARPREET SINGH BRAR J. (Oral)**

1. Present revision petition has been preferred by the petitioner against the judgment dated 13.12.2010 passed by learned Additional Sessions Judge, Ferozepur vide which judgment of conviction and order on quantum of sentence dated 03.07.2010 passed by Judicial Magistrate Ist Class, Zira, have been upheld, vide which petitioner has been convicted under Section 304-A of Indian Penal Code and sentenced to undergo rigorous imprisonment for two years and fine of Rs. 1000/- was imposed with default mechanism.

2. Briefly stated the facts of present case are that on 18.04.2004, one Gurlal Singh got recorded his statement to ASI Amrik Singh to the effect that he was doing the job of teacher in Village Longiwind. His father Sewa Singh was doing the repairing work of sewing machine at Zira. On the date of incident, his father Sewa Singh was driving a Motorcycle having no registration number as no number was issued by the Registration authorities till that day. The complainant along with one Raj Kumar, who is

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also known to the complainant, were following his father on scooter bearing No. PB-05-C-9539. The scooter was driven by the complainant and Raj Kumar was pillion rider. Motorcycle of his father was going at a distance of 15/20 *footsteps*. At around 6.20 PM when they reached near chowk of Village Araylan Wala, a Bus bearing No. PB11N-3820 of PRTC Depot Faridkot driven by its driver at a very high speed came from the front side and struck against the Motorcycle of his father. Due to which the motorcycle of his father fell down and his father fell down at some distance from the Motorcycle. The complainant stopped his scooter at back. When he and Raj Kumar came to his father to save him, then the driver of Bus along with the bus fled away from the spot. He and Raj Kumar tried to save his father but his father died on the spot. He left Raj Kumar at the spot and himself went to inform the police. On the basis of aforesaid allegations FIR in the present case was registered.

3. Learned trial Court after assessing the material on record convicted the petitioner under Section 304-A of Indian Penal Code and sentenced him to undergo rigorous imprisonment for two years and fine of Rs. 1,000/- was imposed upon him with default mechanism. Appeal filed against the said judgment of conviction and order of sentence was dismissed by learned Lower Appellate Court.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 13.12.2010 passed by learned Additional Sessions Judge, Ferozepur on merits and restricts his prayer to modification of the order on quantum of sentence dated



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03.07.2010 to that of sentence already undergone by the petitioner as he has already undergone a period of 08 months and 16 days including remission, and not involved in any other case.

5. Per contra, learned State counsel opposes the prayer of the petitioner on the ground that 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. However, he could not controvert the fact that petitioner is not involved in any other case.

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

7. 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

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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.

8. A perusal of the judgment of conviction passed by the learned lower Appellate Court indicates no perversity in its findings and the said judgment 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.

9. Perusal of record indicates that FIR(supra) was registered on 18.04.2004 and the petitioner has been suffering the agony of trial since the last more than 20 years. As per the custody certificate, the petitioner has undergone total sentence of 08 months and 16 days, including remission, out of rigorous sentence of two years awarded to him and he is not involved in any other case.

10. 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.

11. Consequently, the present petition is disposed of in the following terms:-

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(i) The judgment dated 13.12.2010 passed by the learned Sessions Judge, Farozepur upholding the judgment of conviction dated 03.07.2010 passed by learned Judicial Magistrate Ist Class, Zira is upheld, however, the order of sentence dated 03.07.2010 is modified to the extent that the sentence of rigorous imprisonment for two years awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 1,000/- imposed upon the petitioner is enhanced to Rs. 5,000/-. The petitioner is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo simple imprisonment for one month.

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

19.02.2025

Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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