

**CRR-85-2012 (O&M)****1****224****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-85-2012 (O&M)****Date of Decision: 31.01.2025****RUPINDER SINGH****...Petitioner****Versus****STATE OF PUNJAB****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Karan Pathak, Advocate
for the petitioner.

Mr. Nitesh Sharma, DAG Punjab.

Harpreet Singh Brar, J. (Oral)

1. Present revision petition has been preferred against the judgment dated 14.12.2011 passed by learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar (Nawashahar) whereby the judgment of conviction and order on quantum of sentence dated 27.05.2010 passed by learned Sub Divisional Judicial Magistrate Balachaur vide which the petitioner has been convicted under Sections 279 and 304-A of Indian Penal Code and sentenced to undergo rigorous imprisonment for two years with fine of Rs. 2,100/- with default mechanism, have been upheld awarding sentence of rigorous imprisonment for one year, in case bearing FIR No. 88 dated 28.07.2000 registered at Police Station Balachaur District SBS Nagar.

2. In brief the facts of the present case are that the FIR was registered on the statement of Subhash Chander who stated that on 28.07.2000 at about 8:30 p.m. he alongwith Sham Lal was standing in front of B.A.V. Senior Secondary School, Balachaur, where his nephew Amit Lal @ Jeeta came on his scooter bearing registration No. PB-20-2783. In the meantime, one scooter

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bearing no. HR-04-1167 which was being driven by accused Rupinder Singh (petitioner herein) in rash and negligent manner came there and struck against the scooter of Amit Lal, who was on the left side of road, as a result of which Amit Lal fell down on the ground and received head injury on the back side. Complainant along with Sham Lal took Amit Lal to Civil Hospital Balachaur for treatment from where Amit Lal was referred to P.G.I. Chandigarh. However, complainant took Amit Lal to DMC Ludhiana and when they reached near Nawanshahr, condition of Amit Lal worsened and he was taken to Civil Hospital Nawanshahr where he was declared brought dead. It was submitted that the accident took place due to rash and negligent driving of accused Rupinder Singh. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned trial Court after assessing the material on record convicted the petitioner under Sections 279 and 304-A of Indian Penal Code and sentenced him to undergo rigorous imprisonment for two years with fine of Rs. 2,100/- 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, however, sentence under Section 304-A of IPC imposed by the trial Court was reduced to one year.

4. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 14.12.2011 passed by learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar on merits and restricts his prayer to modification of the order of quantum of sentence to that of sentence already undergone by the petitioner as he has already undergone a period of 01 month and 27 days, 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

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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 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.

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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 in the year 2000 and the petitioner has been suffering the agony of trial since the last 24 years. As per the custody certificate, the petitioner has undergone total sentence of 01 month and 27 days out of rigorous sentence of one year 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:-

(i) The judgment dated 14.12.2011 passed by the learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar (Nawashahar) upholding the judgment of conviction dated 27.05.2010 passed by learned Sub Divisional Judicial Magistrate, Balachaur is upheld, however, the order of sentence is modified to the extent that the sentence of rigorous imprisonment for one year as awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 2100/- imposed upon the petitioner is enhanced to Rs. 5,000/-. The petitioner is directed to deposit the amount of fine in the



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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.

(HARPREET SINGH BRAR)
JUDGE

31.01.2025
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No