



19.05.2007, her son Amandeep Singh @ Raja, daughter Manpreet Kaur, son-in-law Gurmit Singh went to Haveli Restaurant, Jalandhar in an Accent car bearing No.DL-2F-EC-0066 whereas she, along with the children of her daughter Manpreet Kaur and one Kulwinder Singh, friend of her son Amandeep Singh @ Raja, went to Haveli Restaurant, Jalandhar for dinner in an Indica car bearing No.PB10-BL-T-1128. After meal, when all of them were going towards Ludhiana, a truck bearing No.JK02B-7805, which was being driven in a rash and negligent manner and at a high speed, crossed their vehicles. At about 3.30 am on 20.05.2007, when the complainant and her family reached near Dhumal Petrol Pump, GT Road, Phillaur, the driver of the said truck stopped the same on the middle of the road and the car of Amandeep Singh @ Raja struck against the truck of the accused. The son of the complainant namely Amandeep Singh @ Raja died on the spot whereas Manpreet Kaur and Gurmit Singh got injured in the accident and were shifted to Apollo Hospital, Ludhiana. Manpreet Kaur also succumbed to death later on account of injuries received. The driver of the truck fled away from the spot. On the basis of the statement made by the complainant that the accident had occurred due to the rash and negligent driving of the accused, FIR No.129 dated 20.05.2007 came to be registered under Sections 304-A, 279, 337, and 338 of the Indian Penal Code at Police Station Phillaur.

3. The documents of the vehicles were taken into police possession. The accused was arrested. After completion of the investigation, the final report under Section 173 Cr.P.C. was filed in the court for offences under



Sections 279, 304-A and 337 of IPC and documents were supplied to the accused-petitioner free of cost.

4. 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 the and explained to the accused, to which he pleaded not guilty and claimed trial.

5. In order to substantiate its case, the prosecution examined Kanwaljit Kaur, complainant as PW-1, Dr. Kanwaljit Singh, SMO as PW-2, Kulwinder Singh as PW-3, Ramesh Kumar as PW-4, HC Tarlochan Singh as PW-5, Narinder Singh as PW-6, HC Kulwinder Singh as PW-7, ASI Palwinder Singh as PW-8 and ASI Surjit Singh as PW-9 and closed the prosecution evidence.

6. The statement of the petitioner was recorded under Section 313 Cr.PC wherein all incriminating circumstances and evidence appearing on record were put to him. The petitioner denied the allegations in their entirety, described the prosecution case and evidence as false and fabricated, and asserted his innocence.

7. No defence evidence/witness was produced by the accused during the phase of his defence evidence.

8. After considering the arguments advanced, the testimonies of witnesses, and the evidence placed on record, the Trial Court, vide judgment dated 05.11.2012, held the petitioner guilty of offences punishable under Section 304-A of the Indian Penal Code, 1860.



9. Aggrieved by the aforesaid judgment of conviction and sentence, the petitioner preferred Criminal Appeal No.29976/2013 dated 03.12.2012 before the Court of the Addl. Sessions Judge, Jalandhar. Vide judgment dated 24.10.2013, the judgment of conviction and order of sentence under Section 304-A of IPC was upheld. Hence, the present revision petition.

10. After advancing arguments at some length, learned counsel for the petitioner submits that, vide order dated 09.09.2014 passed by this Court, the remaining sentence of the petitioner had been suspended after noticing that he had undergone an actual custody of more than ten months out of the total sentence of two years. He contends that he would not press the present revision petition on merits and contends that he would confine his challenge only to the quantum of punishment that has been so awarded. The following mitigating circumstances are pointed out by the counsel for the petitioner:

- (i) The incident in question occurred in May-2007, and more than eighteen years have since elapsed.
- (ii) That the incident in question was an unfortunate and purely accidental occurrence, having taken place without any intention or overt act on the part of the petitioner.
- (iii) The petitioner has endured the ordeal of a prolonged criminal trial spanning over eighteen years.
- (iv) The petitioner is the sole bread earner in his family and his prolonged incarceration has caused severe hardship to them.



11. State counsel, on the other hand, contends that both the Courts have examined the evidence brought on record and concurrently recorded a finding of conviction against the petitioner. In a revisional jurisdiction, neither a new line of defence can be adopted nor any re-appreciation of the evidence can be undertaken. No illegality or perversity has been pointed out by the petitioner, hence, no occasion would call for upsetting the findings recorded or the sentence awarded and affirmed by the Courts.

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

13. 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 society. Hence, by the broader principles of criminal jurisprudence, no adverse presumption can be drawn against him.

14. The Hon'ble Supreme Court has laid down certain principles to govern the Courts in the matter of sentencing. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court in the matter of ***State of Punjab Vs. Prem Sagar & Ors (2008) 7 SCC 550***. The relevant extract of the said judgment is reproduced hereinbelow: -

5. 'Whether the Court while awarding a sentence would take recourse to the principle of deterrence or reform or invoke the doctrine of proportionality, would no doubt depend upon the facts and circumstances of each case. While doing so, however, the nature of the offence said to have been committed by the accused plays an important role. The offences which affect public health must be dealt with severely. For the said purpose, the courts must notice



the object for enacting Article 47 of the Constitution of India.

6. *There are certain offences which touch our social fabric. We must remind ourselves that even while introducing the doctrine of plea bargaining in the Code of Criminal Procedure, certain types of offences had been kept out of the purview thereof. While imposing sentences, the said principles should be borne in mind.*

7. *A sentence is a judgment on conviction of a crime. It is resorted to after a person is convicted of the offence. It is the ultimate goal of any justice-delivery system. Parliament, however, in providing for a hearing on sentence, as would appear from sub-section (2) of Section 235, sub-section (2) of Section 248, Section 325 as also Sections 360 and 361 of the Code of Criminal Procedure, has laid down certain principles. The said provisions lay down the principle that the court in awarding the sentence must take into consideration a large number of relevant factors; sociological backdrop of the accused being one of them.*

8. *Although a wide discretion has been conferred upon the court, the same must be exercised judiciously. It would depend upon the circumstances in which the crime has been committed and his mental state. Age of the accused is also relevant.*

9. *What would be the effect of the sentencing on the society is a question which has been left unanswered by the legislature. The Superior Courts have come across a large*



number of cases which go to show anomalies as regards the policy of sentencing. Whereas the quantum of punishment for commission of a similar type of offence varies from minimum to maximum, even where same sentence is imposed, the principles applied are found to be different. Similar discrepancies have been noticed in regard to imposition of fine.

10. *In Dhananjay Chatterjee Alias Dhana v. State of W.B. [(1994) 2 SCC 220], this Court held:*

"15...Imposition of appropriate punishment is the manner in which the courts respond to the society's cry for justice against the criminals. Justice demands that courts should impose punishment befitting the crime so that the courts reflect public abhorrence of the crime..."

11. *Gentela Vijayavardhan Rao and Another v. State of A.P. [(1996) 6 SCC 241], following Dhananjay Chatterjee (supra), states the principles of deterrence and retribution but the same cannot be categorized as right or wrong. So much depends upon the belief of the judges.*

12. *In a recent decision in Shailesh Jasvantbhai and Another v. State of Gujarat and Others [(2006) 2 SCC 359], this Court opined:*

"7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living



law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of 'order' should meet the challenges confronting the society. Friedman in his Law in Changing Society stated that: "State of criminal law continues to be--as it should be--a decisive reflection of social consciousness of society." Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

Relying upon the decision of this Court in Sevaka Perumal v. State of T.N. [(1991) 3 SCC 471], this Court furthermore held that it was the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed etc.

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18. Don M. Gottfredson in his essay on "Sentencing Guidelines" in "Sentencing by Hyman Gross and Andrew von Hirsch" opines:

"It is a common claim in the literature of criminal justice and indeed in the popular press that there is considerable "disparity" in sentencing. The word "disparity" has become a prerogative and the concept of "sentencing disparity" now carries with it the connotation of biased or insidious practices on the part of the judges. This is unfortunate in that much otherwise valid criticism has failed to separate justified variation from the unjustified variation referred to as disparity. The phrase "unwarranted disparity" may be preferred; not all sentencing variation should be considered unwarranted or disparate. Much of it properly reflects varying degrees of seriousness in the offense and/or varying characteristics of the offender. Dispositional variation that is based upon permissible, rationally relevant and understandably distinctive characteristics of the offender and of the offense may be wholly justified, beneficial and proper, so long as the variable qualities are carefully monitored for consistency and desirability over time. Moreover, since no two offenses or offenders are identical, the labeling of variation as disparity necessarily involves a value judgment- that is, disparity to one person may be simply justified variation to another. It is only when such variation takes the form of differing sentences for similar offenders committing similar offenses that it can be considered disparate."

[Emphasis supplied]

The learned author further opines:



"In many jurisdictions, judicial discretion is nearly unlimited as to whether or not to incarcerate an individual; and bound only by statutory maxima, leaving a broad range of discretion, as to the length of sentence."

19. Kevin R. Reitz in *Encyclopedia of Crime and Justice*, Second edition "Sentencing guidelines" states:

"All guideline jurisdictions have found it necessary to create rules that identify the factual issues at sentencing that must be resolved under the guidelines, those that are potentially relevant to a sentencing decision, and those viewed as forbidden considerations that may not be taken into account by sentencing courts. One heated controversy, addressed differently across jurisdictions, is whether the guideline sentence should be based exclusively on crimes for which offenders have been convicted ("conviction offenses"), or whether a guideline sentence should also reflect additional alleged criminal conduct for which formal convictions have not been obtained ("non-conviction offenses")."

Another difficult issue of fact-finding at sentence for guideline designers has been the degree to which trial judges should be permitted to consider the personal characteristics of offenders as mitigating factors when imposing sentence. For example: Is the defendant a single parent with young children at home? Is the defendant a drug addict but a good candidate for drug treatment? Has the defendant struggled to overcome conditions of economic, social or educational deprivation prior to the offense? Was the defendant's criminal behavior explicable



in part by youth, inexperience, or an unformed ability to resist peer pressure? Most guideline states, once again including all jurisdictions with voluntary guidelines, allow trial courts latitude to sentence outside of the guideline ranges based on the Judge's assessment of such offender characteristics. Some states, fearing that race or class disparities might be exacerbated by unguided consideration of such factors, have placed limits on the list of eligible concerns. (However, such factors may indirectly affect the sentence, since judges are permitted to base departures on the offender's particular 'amenability' to probation (Frase, 1997).)"

20. *Andrew von Hirsch and Nils Jareborg have divided the process of determining sentence into stages of determining proportionality while determining a sentence, namely:*

1. *What interests are violated or threatened by the standard case of the crime- physical integrity, material support and amenity, freedom from humiliation, privacy and autonomy.*
2. *Effect of violating those interests on the living standards of a typical victim- minimum well-being, adequate well-being, significant enhancement*
3. *Culpability of the offender*
4. *Remoteness of the actual harm as seen by a reasonable man.'*

15. The Hon'ble Supreme Court in the matter of ***Pramod Kumar Mishra Vs. State of UP (2023) 9 SCC 810***, observed that punishment must not be viewed as an act of vengeance but as a means of reformation and



reintegration of the offender into society. It was further held that an appropriate sentence must be determined by considering a range of factors, including the nature and circumstances of the offence, the offender's background, age, mental and emotional condition, potential for rehabilitation, prior criminal record, and the deterrent needs of the community. Sentencing, the Court noted, involves a delicate exercise of judicial discretion where multiple social, psychological, and moral factors must be balanced to ensure that justice serves both societal protection and individual redemption.

16. The fundamental purpose of imposition of sentence is based upon making an accused realize the consequences of the crime committed by him and the creation of the dent in the life of the victims and also the social fabric. The same by itself does not oblige the Court to extend an opportunity to a convict for reforming himself. The principles of proportionality have to be balanced and the impact of the offence on the society as a whole and its ramifications on the victim and the immediate collectives also has to be examined.

17. A nine judge bench of the Supreme Court of the United States, in ***Dennis Councle McGautha v. State of California reported as 402 U.S. 183 (1971)***, observed that the criteria governing sentencing neither furnish an exhaustive list of relevant considerations nor indicate how various circumstances should influence the decision-making process. In essence, these standards merely suggest broad areas for consideration and underscore the inherent difficulty in formulating uniform sentencing principles, particularly in matters of grave offences. The Court further cautioned against rigidly



prescribing or mandating uniform standards for sentencing, emphasizing that the principles governing punishment must depend upon the facts and circumstances of each individual case, and that no straightjacket formula can be universally applied.

18. 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.

19. The case in hand is yet another 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.

20. Taking into consideration, the facts noticed above and considering that the petitioner has faced the rigour of criminal prosecution for nearly two decades since the registration of the FIR and as against the substantive sentence of two years, he has already undergone a sentence of more than 10 months, I deem it appropriate to partly allow the petition. While maintaining



the judgment of conviction passed by Addl. Sessions Judge, Jalandhar, the order of sentence so passed is modified. The sentence awarded under Section 304-A IPC, 1860, by the Judicial Magistrate, 1st Class, Phillaur vide judgment dated 05.11.2012 and upheld by Addl. Sessions Judge, Jalandhar vide judgment dated 24.10.2013, is modified to the period already undergone. However, the sentence of fine awarded by the Courts below to a sum of Rs.1000/- is increased to Rs.3000/-, failing which he shall undergo the default punishment, as ordered.

- 21. The petition is accordingly partly allowed.
- 22. Pending criminal misc. application(s), if any, stand disposed of.

December 11, 2025

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Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No

(VINOD S. BHARDWAJ)

JUDGE