

**CRR-2695-2023 (O&M)****1****271****IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRR-2695-2023 (O&M)****Date of Decision: 28.01.2025****GORDHAN****...Petitioner****Versus****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. R.K. Doon, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

*********Harpreet Singh Brar, J. (Oral)**

1. Present revision petition has been preferred by the petitioner against the judgment dated 21.09.2023 passed by learned Additional Sessions Judge, Bhiwani vide which judgment of conviction and order on quantum of sentence dated 04.08.2016/05.08.2016 passed by learned Sub Divisional Judicial Magistrate, Loharu, have been upheld, vide which petitioner has been convicted under Sections 279 and 304-A of Indian Penal Code and awarded substantive sentence of simple imprisonment for two years and fine of Rs. 2000/- was imposed upon him with default mechanism.

2. Brief facts of the prosecution case are that on 22.05.2012, Ruqa was received in Loharu police station from CHC Loharu regarding death of Suresh Kumar in road side accident. Upon which ASI Pawan Kumar alongwith staff reached at CHC Loharu where complainant Bhanwar Lal (PW5) was found present and his statement was got recorded wherein he has alleged that he was an agriculturist. At about 12.30 pm, he went for filling of diesel in his tractor and



when he reached near Dhani Rahimpur, one I-10 car bearing registration No.RJ-18CA-6483 (here-in-after referred to as Car) was running in front of him and a dumper bearing registration No. HR-61A-4327 (here-in-after referred to as offending vehicle) coming from opposite side which was driven by its driver rashly and negligently due to which it was collided with car in which three persons namely Suresh Kumar (driver), Tinku and Anil were occupants, received injuries. He called some persons through his mobile phone for help. After that, Suresh was sent to CHC Loharu and Anil and Tinku were sent to village Chidawa. Thereafter he came to know that all three had expired. A prayer was thus made to take legal action against the culprit.

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 substantive sentence of simple imprisonment for two years along and fine of Rs. 2,000/- 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 21.09.2023 passed by learned Additional Sessions Judge, Bhiwani on merits and restricts his prayer to modification of the order of quantum of sentence dated 05.08.2016 to that of sentence already undergone by the petitioner as he has already undergone a period of 01 year 15 days including remission.

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.

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.

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 2012 and the petitioner has been suffering the agony of trial since the last 12 years. As per the custody certificate, the petitioner has undergone total sentence of 01 year 15 days, including remission, out of substantive sentence of simple imprisonment for two years awarded to him by the trial Court.

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 21.09.2023 passed by the learned Additional Sessions Judge, Bhiwani upholding the judgment of conviction dated 04.08.2016 passed by learned Sub Divisional Judicial Magistrate, Loharu is upheld, however, the order of sentence dated 05.08.2016 is modified to the extent that the substantive sentence of simple imprisonment for two years awarded to the petitioner is reduced to the period of sentence already undergone by him.

(ii) Fine of Rs. 2000/- imposed upon the petitioner is enhanced to Rs. 10,000/-. The petitioner is directed to deposit the remaining 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.

(HARPREET SINGH BRAR)
JUDGE

28.01.2025
Ajay Goswami

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