



**204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-77-2012

Date of decision: 06.05.2025

Nirmal Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manpreet Singh, Advocate as (Amicus Curiae)
for the appellant.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against the judgment dated 02.12.2011 passed by the learned Additional Sessions Judge, Barnala, vide which the appeal against judgment of conviction and order of sentence dated 04.10.2011 passed by the learned Judicial Magistrate 1st Class, Barnala, in FIR No.61 dated 20.05.2006 registered under Sections 304-A/279/337/333 of IPC, registered at Police Station Dhanaula, has been dismissed.

2. The petitioner was convicted and sentenced as mentioned below:

Offence	Sentence
Section 304-A of IPC	Rigorous imprisonment for a period of one year and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for 15 days.
Section 279 of IPC	Rigorous imprisonment for a period of six months and to pay fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for 15 days.
Section 337 of IPC	Fine of Rs.500/-
Section 338 of IPC	Fine of Rs.500/-

All the sentences were ordered to run concurrently.

3. After assessing the material available on record, the learned trial Court convicted the petitioner vide judgment dated 04.10.2011. Aggrieved by



the same, the petitioner preferred an appeal before the learned lower Appellate Court which has been dismissed vide judgment dated 02.12.2011.

4. Learned *amicus curiae* for the petitioner *inter alia* contends that the petitioner is not named in the FIR (*supra*). Further, the identity of the petitioner has not been established as a person who was driving the truck at the time of the alleged accident. Further, the person who had clicked the pictures after the accident, has not been examined and the photographs of both the vehicles are not proved on record. In the statement of Pritam Singh, there is cutting and overwriting of the registration of the vehicle which makes the case of the prosecution doubtful and the witnesses were discrepant with regard to the time of the accident. Furthermore, PW-6-Pritam Singh has deposed that he has not named the petitioner as an accused and he has no knowledge when the petitioner was arrested neither he has identified the petitioner. To ascertain who was responsible for the accident between the two vehicles, the learned trial Court has not returned any finding that the petitioner is responsible for the accident. Lastly, the petitioner has already undergone a total period of 05 months and 10 days in custody. He further submits that accused/petitioner is not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of the petitioner as the learned Courts below have passed well-reasoned judgments based on correct appreciation of evidence available on record and as such, he does not deserve any leniency. However, he could not controvert the fact that the petitioner is not involved in any other case.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner was convicted



under Sections 304-A/279/337/338 of IPC for which no minimum punishment has been prescribed. As per his custody certificate, petitioner has already undergone a period of 05 months and 10 days in custody out of total sentence of 01 year, in the instant case. Since there is no minimum punishment prescribed under Sections 304-A/279/337/338 of IPC, 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.

7. In *Deo Narain Mandal vs. State of U.P. (2004) 7 SCC 257*, 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.

8. Further, the Hon'ble Supreme Court in *Ravada Sasikala vs. 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

**CRR-77-2012****-4-**

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.

9. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. However, the FIR (supra) was lodged on 20.05.2006 and the petitioner has been suffering the agony of trial for last about 19 years. Since his conviction, he has grown into a law-abiding citizen and desires to live a peaceful life.

10. Therefore, in view of the discussion above, the present revision petition is disposed of in the following terms:-

(i) The judgment dated 02.12.2011 passed by the learned Additional Sessions Judge, Barnala, is upheld and sentence of 01 year and fine awarded by the learned trial Court is reduced to the period of sentence already undergone by the petitioner.

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

12. The High Court Legal Services Authority is directed to pay remuneration to the learned *Amicus Curiae*/Legal Aid Counsel, as per rules.

(HARPREET SINGH BRAR)
JUDGE

06.05.2025*Neha*

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