241 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3112-2012
Date of decision: 08.01.2025

OM PARKASH

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Singla, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

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HARPREET SINGH BRAR, J. (ORAL)

1. This revision petition has been preferred against the judgment dated 22.08.2012 passed by learned Sessions Judge, Fatehabad, vide which, judgment of conviction and order on quantum of sentence dated 09/10.12.2009 passed by learned Additional Chief Judicial Magistrate, Fatehabad in case bearing FIR No.490 dated 22.09.2002 registered under Sections 279/337/304-A IPC at Police Station City Fatehabad have been upheld.

2. The petitioner was sentenced as under:

Offence	**Sentence**
279 IPC	RI for 03 months with a fine of Rs.500/- in default of payment of fine to undergo RI for 15 days.
337 IPC	RI for 06 months with a fine of Rs.500/- in default of payment of fine to undergo RI for 15 days.
304-A IPC	RI for 01 year with a fine of Rs.500/- in default of payment of fine to undergo RI for 15 days.

It was ordered that all the sentences shall run concurrently.

3. Brief facts of the case are that the FIR (supra) was registered on the statement made by complainant Bhagi Ram that on 22.09.2002 at about 11:15 AM, he was going to Bhuna Road, when he reached near Bhartiya Service Station, Bhuna Road, Mohinder Singh son of Chatter Singh alongwith

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Jagsir Singh son of Har Gobind came on a motor cycle, who after having seen the complainant stopped motor cycle and started talking after having brought the motor cycle on one side. In the meantime, a truck bearing no.HR22/9125 driven rashly and negligently came from the side of Bhuna and dashed against the motor cycle without blowing any horn, as a result of which all the three i.e complainant, Mohinder and Jagsir fell on the road, whereas motor cycle was over ran by the Truck and Jagsir also got over run by the rear tyre of the Truck. He succumbed to the injuries at the spot, whereas complainant and Mohinder Singh received injuries upon their persons.

4. The petitioner was convicted and sentenced vide judgment and order dated 09/10.12.2009 passed by learned trial Court, which has also been upheld by learned lower Appellate Court vide judgment dated 22.08.2012.

5. Learned counsel for the petitioner contends that he is not assailing the impugned judgment of conviction dated 09.12.2009 on merits and restricts his prayer to modification of the order on quantum of sentence to that of the sentence already undergone by the petitioner. Petitioner has undergone a total period of 04 months and 14 days, including remission and is not involved in any other case.

6. *Per contra*, learned State counsel opposes the prayer of the petitioner as 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.

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

8. In ***Deo Narain Mandal v. State of UP (2004) 7 SCC 257***, a Three

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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.

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. 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.

10. The FIR in the present case was lodged on 22.09.2002 and the

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petitioner has been suffering the agony of protracted trial for last 22 years. Since his conviction, the petitioner has grown into law-abiding citizen and desire to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone total sentence of 04 months and 14 days, including remission out of total sentence of one year, in the instant case.

11. 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.

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

(i) The judgment dated 22.08.2012 passed by the learned Sessions Judge, Fatehabad, affirming the judgment of conviction is upheld, however, the order of sentence dated 10.12.2009 is modified to the extent that the sentence of rigorous imprisonment for one year along with default mechanism awarded to the petitioner is reduced to the period of sentence already undergone by him subject to the fine of an amount of Rs.5,000/- upon the petitioner.

(ii) 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 rigorous imprisonment for one month.

(HARPREET SINGH BRAR)
JUDGE

January 08, 2025
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(i) Whether speaking/reasoned Yes/No

(ii) Whether reportable Yes/No

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