

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

CRR-1318-2006

Date of decision : 02.09.2015

Mukesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sanjay Vashisth, Advocate,
and Ms. Neeru Bansal, Advocate,
for the petitioner.

Mr. Arun Luthra, AAG, Haryana.

JITENDRA CHAUHAN, J.

The present revision petition has been filed by the petitioner, Mukesh, challenging the judgment dated 24.05.2006, passed by the learned Additional Sessions Judge, Bhiwani, (for short, 'the first appellate Court') dismissing the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 21/22.03.2005, passed by the learned Additional Chief Judicial Magistrate, Bhiwani, (for short, 'the trial Court') vide which, the accused-petitioner has been convicted under

Sections 279/337/304-A of the Indian Penal Code, (for short, 'the IPC') and sentenced as under:-

Under Section	Sentence	In default of payment of fine
Section 279 IPC	RI for three months and fine of Rs.500/-	To further undergo imprisonment for ten days
Section 337 IPC	RI for three months and fine of Rs.500/-	To further undergo simple imprisonment for ten days
Section 304-A IPC	RI for two years and fine of Rs.5,000/-	To further undergo imprisonment for two months

However, both the sentences were order to run concurrently.

Brief facts of the case find mention in para No.2 of the judgment rendered by the first appellate Court, which read as under:-

“2. Shorn of details, the prosecution case, as culled out from the police report, submitted under Section 173 Cr.P.C. is that on the fateful morning i.e. 4.6.2000, Dhan Singh alongwith complainant Maya Ram and Dharam Chand were travelling in a jeep from Village Rasiwas to Bhiwani. Sombir (since deceased) was already occupant of the said jeep, being driven by accused in a rash or negligent manner. However, its occupants made earnest requests to him to drive cautiously, which went unheeded and ultimately, it dashed against a kikkar

tree. With the result, Dhan Singh and Sombir sustained multiple injuries and both were rushed to General Hospital, Bhiwani. However, Sombir being in precarious condition was referred to PGIMS, Rohtak, who succumbed to his injuries. On the statement of complainant Maya Ram, case was registered and investigation agency swung into action. After the completion of investigation, accused was brought to trial.”

The accused was charged under Sections 279, 337, 304-A IPC, to which he pleaded not guilty and claimed trial. In total, eight witnesses were examined by the prosecution to prove its case.

When examined under Section 313 Cr.P.C., the petitioner denied all allegations and pleaded innocence. However, he did not lead any evidence in defence.

After hearing learned counsel for the parties and perusing the evidence available on record, the learned trial Court convicted and sentenced the petitioner as noticed at the outset of this judgment. Feeling aggrieved, the petitioner preferred an appeal before the learned first appellate Court, which also stood dismissed. Hence the present criminal revision petition, which was admitted by this Court on 04.07.2006.

In this case, PW-2 Maya Ram and PW-3 Dharam Chand have supported the case of the prosecution. PW-2 Maya Ram had stated that the petitioner was driving the jeep in a rash and negligent manner. He was also repeatedly requested to drive cautiously, but to no avail. Ultimately, the jeep struck against the kikkar tree resulting into the accident. PW-8 Dhan Singh, the injured witness, one of the occupants of the offending jeep, also supported the prosecution version. These witnesses were subjected to a lengthy cross-examination but no material discrepancy could be pointed out. On the basis of the prosecution evidence, the learned trial Court held the petitioner guilty of driving the offending jeep in a rash and negligent manner which resulted into the accident, wherein, Sombir, lost his life. The appeal preferred by the petitioner also stands dismissed by the learned lower appellate Court.

Therefore, this Court is not inclined to disturb the concurrent findings recorded by the learned Courts below in the matter of conviction and the same is hereby maintained.

However, as far as the sentence part is concerned, the accident took place on 04.06.2000 and the petitioner has been facing the agony of protracted trial for the last more than fifteen years. He was a young man of 19-20 years of age at the time of the accident. He is not a previous convict. The learned counsel

for the petitioner stated that the petitioner has now married and has two minor children.

Keeping in view the mitigating circumstances enumerated above, this Court is inclined to take a lenient view as far as the quantum of sentence is concerned. Accordingly, the sentence of imprisonment awarded under Section 304-A IPC is reduced from two years to one year. However, the same shall be subject to the payment of enhanced fine of Rs.50,000/-, to be paid to the legal heirs of the deceased, as compensation, within a period of four months from the date of receipt of a certified copy of this judgment. The petitioner is stated to be on bail. His bail bonds shall stand forfeited. He be taken into custody forthwith, to undergo the remainder of the sentence.

In case, the enhanced amount of fine is not paid within the stipulated period, the present petition shall be deemed to have been dismissed and the petitioner shall have to undergo the remaining part of the sentence. The impugned order of sentence stands modified to the extent indicated above.

This revision petition stands disposed of accordingly.

02.09.2015

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(JITENDRA CHAUHAN)
JUDGE

Note : Whether to be referred to Reporter? Yes