

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

**CRR No.1698 of 2006(O&M)
Date of decision : 14.08.2015**

Dharambir

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Rajesh Goel , Advocate for the petitioner.

Ms.Tanushree Gupta, DAG, Haryana.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This revision has been filed against the concurrent conviction of the petitioner under Sections 279/337/304-A IPC.

The brief facts are that some persons were going in a truck to Arunai Temple near Pehova where the truck developed a snag. It was parked on the kutcha berm and the mechanic was summoned. Some of the passengers were put in another truck and while the owner of the truck and some other persons were standing behind the truck when the petitioner came from behind driving his passenger laden jeep bearing registration No. HR-40-PA-0117 rashly and negligently and plowed into the back of the truck as a result of which the owner of the truck and one of the passengers died and three or four passengers suffered injuries. The petitioner was sentenced to one year imprisonment.

Learned counsel for the petitioner has argued that in this case the investigating officer did not appear. No post mortem was

conducted and even the complainant was declared hostile. In the circumstances he prays for acquittal of the petitioner.

Learned AAG on the other hand has argued that there is a series of the judgments as per which the non-examination of the investigating officer or the fact that the informant has turned hostile has been ignored by the Courts where there is otherwise credible evidence. As per her in the present case four eye witnesses have been examined. She has relied upon **State of Karnataka v. Bhaskar Kushali Kotharkar and others** reported as 2004(7) SCC 487. She has also relied upon **State of Punjab Vs. Saurabh Bakshi**, reported as 2015(2)RCR(Crl.) 495 where the Hon'ble Supreme Court has laid down that the offence under Section 304-A IPC cannot be compromised. Learned counsel for the petitioner has argued that even in the case of Saurabh Bakshi (supra) the Hon'ble Supreme Court had reduced the sentence from 2 years to 6 months. He has also argued that the petitioner has undergone 31 days out of total sentence of 1 year and has now faced these criminal proceedings for the past 15 years and has, therefore, prayed that his sentence be reduced to the period which he has already undergone but the fine be enhanced.

In the circumstances even while dismissing the revision the sentence of the petitioner is reduced to four months. Let him be arrested to serve out the remaining period of his sentence.

Since the main case has been decided, the Criminal Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

August 14 , 2015
sunita