

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.**

Crl. Revision No.251 of 2006 (O&M)
Date of decision: October 01, 2015

Amrik Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Dinesh Trehan, Advocate for the petitioner.
Mr. Gaurav Dhir, DAG, Haryana.

Rajan Gupta, J. (oral)

Petitioner Amrik Singh had been convicted by the Addl. Chief Judicial Magistrate, Karnal, under sections 279 & 304-A IPC. He was sentenced to undergo rigorous imprisonment for six months under section 279 IPC and one year under section 304-A IPC.

The petitioner preferred appeal against the judgment of his conviction/sentence, which was dismissed by Additional Sessions Judge, Karnal, vide judgment dated 25.01.2006.

Feeling aggrieved against the judgments of both the courts below, the petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner has submitted that the alleged accident had taken place on 17.08.2005 and the petitioner has suffered rigour trial for a period of more than 10 years and therefore, no

useful purpose shall be served by sending the petitioner behind the bars any more. He has further submitted that petitioner is the first offender and thus, he is entitled to benefit of probation.

Learned State counsel, on the other hand, has opposed the prayer on the ground that while driving the bus in question in a rash and negligent manner, petitioner caused the accident wherein one Subhash Chand died and several other passengers suffered injuries.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 17.12.1995, complainant Bagga Singh boarded the bus bearing registration No.HR-37-1479 of Haryana Roadways, Yamuna Nagar Depot from Delhi at 9.00 P.M.. The said bus was being driven by the petitioner. When the bus reached in the area of village Samera, District Karnal, its driver started driving at a fast speed, due to which it became out of control and struck with the trees standing on the right side of the road and fell into ditches. In the said accident, he received various injuries and one passenger namely, Subhash succumbed to the injuries in the hospital. On his statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under Sections 279, 337, 338 and 304-A IPC, charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution

examined as many as ten witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. He also examined Kehar Singh Mechanic as DW1 and Brij Pal Conductor as DW2 in his defence.

On the basis of the evidence on record, the learned trial court held the petitioner guilty under sections 279 and 304-A IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Karnal on 25.01.2006.

On a perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Prayer for releasing the petitioner on probation is misconceived. He has been convicted on the basis of cogent evidence available against him and same has been upheld by the lower appellate court. However, keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to 06 months, but the petitioner is burdened with a fine of Rs.30,000/- to be paid as compensation to legal heirs of deceased

Subhash. The fine be deposited within three months from the date of receipt of certified copy of this order. However, in case fine aforesaid is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court.

Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

(RAJAN GUPTA)
JUDGE

October 01, 2015
'Rajpal'