

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

Crl. Revision No.959 of 2015 (O&M)
Date of decision: 10.8.2015

Data Ram ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. S.K. Yadav, Advocate for the petitioner.
Mr. P.K. Jangra, Addl. Advocate General, Haryana.

Rajan Gupta, J. (oral)

Petitioner Data Ram had been convicted by the Judicial Magistrate 1st Class, Narnaul, under sections 279 and 304-A IPC. Petitioner was sentenced to undergo rigorous imprisonment for three months under section 279 IPC and further to undergo rigorous imprisonment for a period of 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, Narnaul, vide judgment dated 25.02.2015.

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 at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of

the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On on 29.03.2008, ASI Tej Ram on receipt a medical ruqa from CHC, Ateli regarding admission of Harish Kumar in a road side accident, reached General Hospital, Narnaul. Injured Harish Kumar was not found there. On enquiry it was revealed that he was shifted to Rewari for treatment where doctor declared the injured dead. Thereafter, Krishan Kumar son of Raj Singh met the ASI and got his statement recorded to the effect that on 29.03.2008 at about 5.00 P.M., he alongwith his mother Santra, sister-in-law Guddi Devi, wife Kirosta and his son Harish Kumar aged 5 years, was going to their field for harvesting the mustard crop. When they were standing adjacent to the road for crossing it, a TATA 909 LPT truck bearing No.HR-66C-0975, driven by its driver in a rash and negligent manner and at a high speed, came from Ateli Mandi side and hit against his son Harish Kumar, as a result of which his son fell down on Kucha portion of the road and suffered injuries. On asking, driver of the offending vehicle disclosed his name as Data Ram (petitioner herein). Thereafter, complainant took his son to CHC, Ateli, where the doctors referred him to General Hospital, Narnaul. Complainant then took his son to Rewari where the doctors declared him dead. On this 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 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 thirteen 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. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, the learned trial court held the petitioner guilty of the charge 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, Narnaul on 25.2.2015.

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.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has,

however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is a poor persons and main bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record affidavit of Sanjay Singh, Superintendent of Prison, Narnaul, according to which the petitioner had undergone custody of 06 months and 30 days including remissions.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to 09 months, but the petitioner is burdened with a fine of Rs.40,000/- to be paid as compensation to Krishan Kumar son of Raj Singh, father of deceased Harish Kumar. 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

10.8.2015
'Rajpal'