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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1656-2007
Date of Decision : November 09th , 2016

Mosamdin Petitioner

Versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN

Present: Mr. Vikram Sheoran, Advocate,
for the petitioner.

Mr. Munish Dev Sharma, AAG, Haryana,
for the respondent-State.

SHEKHER DHAWAN, J.

Present revision is directed against the judgment of conviction dated 08.07.2006 and order of sentence dated 15.07.2006 passed by learned Judicial Magistrate 1st Class, Siwani, whereby the petitioner was convicted and sentenced as under:-

Under Section	Sentence	In default
Section 279 IPC	to pay fine of Rs.500/-	To further undergo RI for 1 month.
Section 304-A IPC	to undergo Rigorous Imprisonment for a period of 6 months	

2. First appeal filed by the petitioner was dismissed by learned Sessions Judge, Bhiwani, vide judgment dated 13.08.2007.

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3. Relevant facts for the purpose of decision of this petition; that motor vehicle accident took place on 28.11.2000 which resulted into death of Balbir. Petitioner was driving one Jeep (Marshal) bearing registration No.RJ-10-C-1790 in rash and negligent manner. The said occurrence was witnessed by PW-2 Surajbhan and PW-3 Onkar Singh.

4. After completion of investigation proceedings, challan was presented in the Court for trial.

5. During trial, learned trial Court completed various proceedings of trial including framing of charge against the accused, recording of evidence of the witnesses and examination of accused under Section 313 Cr.P.C. After considering the prosecution evidence and the defence version on record, the trial Court held the petitioner guilty and convicted him on 08.07.2006 for commission of offence punishable under Sections 279/304-A IPC and sentenced him on 15.07.2006.

6. Aggrieved of passing of judgments of conviction and order of sentence, the petitioner is before this Court by way of present revision.

7. Learned counsel for the petitioner submitted that it had come in the evidence that the matter was compromised between the parties and even Abhey Singh father of the deceased, said so while appearing as DW-1. More so, petitioner has already undergone much agony of law as he has been facing protracted litigation of more than 15 years and has already undergone the actual sentence of about 4 months against the awarded sentence of 6 months under Section 304-A of IPC.

8. Learned State counsel submitted that prosecution case is duly

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proved on the file as per testimony of both the eye witnesses who were examined as PW-2 and PW-3 before the trial Magistrate. Their testimony is corroborated by the medical and documentary evidence available on the file. The offence alleged against the petitioner is non-compoundable. More so, learned trial Magistrate has given inadequate sentence although, the offence under Section 304-A IPC is involved and the present revision deserves to be dismissed.

9. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that on merits, prosecution case has been duly proved on the file, as the alleged accident was witnessed by PW-2 Suraj Bhan and PW-3 Omkar Singh. Both the eye witnesses have well stood by the test of cross-examination at the trial. Their testimony is duly corroborated by statement of Investigating Officer, medical and other documentary evidence. The defence version is just a plea of denial, which does not find any support or corroboration. The contention raised by learned counsel for the petitioner that father of deceased appeared as DW-1 and deposed that the matter was compromised is, of little significance, however, such offence alleged against the petitioner is non-compoundable. Both the Courts below have already appreciated the evidence available on file and there is nothing by way of present petition to set aside the said findings. As such, present petition as regard to the judgment of conviction is without any merit and the same stands dismissed.

10. As regards to the order of sentence, learned trial Magistrate has already passed order of sentence completely ignoring the fact that there is

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loss of precious human life because of negligent driving of the present petitioner. The sentence awarded to the petitioner is even less than the required sentence. State has not challenged the said order and this Court is now dealing with the present petition having been filed by the petitioner only. At any, rate there is nothing to interfere in the order of sentence and as such the present petition is dismissed against the judgment of order of sentence as well.

(SHEKHER DHAWAN)
JUDGE

November 09th, 2016
mohan/ komal

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No