

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

**Criminal Revision 2424 of 2007
Date of Decision : April 27, 2016**

Kallan @ Parveen	Versus	Petitioner
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Subhash Godara, Advocate for
Mr. S.S.Dinarpur, Advocate
for the petitioner.

Mr. Dhruv Dayal, Deputy A.G., Haryana.

T.P.S.MANN, J. (Oral)

The petitioner was tried for committing offences punishable under Sections 279, 337 and 304-A IPC on the allegations that on 22.1.1998 at about 5.00 p.m., he drove car, make Fiat bearing registration No. DL-4C-9074 in a rash and negligent manner and at a very high speed and in the process hit against the scooter driven by Pardeep. Said Pardeep fell down and died at the spot. His wife Kanta Devi also received injuries. The scooter was damaged. Vide judgment and order dated 4/5.11.2003, learned Additional Chief Judicial Magistrate, Bhiwani, convicted the petitioner under Section 279 IPC and

sentenced him to pay a fine of Rs.500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month. He was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month. He was, however, acquitted of the charge under Section 337 IPC.

Aggrieved of his conviction and sentence, the petitioner filed an appeal. Vide judgment dated 15.12.2007, learned Additional Sessions Judge (Fast Track Court) Bhiwani upheld the conviction of the petitioner for the offences under Sections 279 and 304-A IPC. His sentence of fine under Section 279 IPC along with its default clause was also upheld. The sentence of imprisonment imposed under Section 304-A IPC was, however, reduced from one year to rigorous imprisonment for six months. Fine of Rs.500/- for the offence under Section 304-A IPC along with its default clause was maintained. Still not satisfied, the petitioner filed the present revision, which came up for hearing before this Court on 20.12.2007. After hearing learned counsel for the petitioner, this Court issued notice limited to the quantum of sentence. On the adjourned date, the Court while admitting the revision, suspended his sentence of imprisonment.

The case of the prosecution, as noticed by the learned

lower appellate Court in para 2 of its judgment is reproduced hereinbelow:-

“ The matrix of the facts, relevant for the disposal of the present appeal and emanating from the trial Court record, is that on 22.1.1998 at about 5 p.m. complainant Hari Singh son of Nihal Singh was proceeding towards bus stand Kharak Kalan for going to his village Lahli. His son Pardeep, daughter-in-law Kanta Devi and grand daughter Sonia were proceeding on an LML Vespa Scooter towards Bhiwani. In the meanwhile, a FIAT car bearing registration No. DL4C-9074 driven by its driver in rash and negligent manner and at a very high speed came from the side of Rohtak and hit against the scooter driven by Pardeep. Pardeep fell down and died at the spot while Kanta Devi received injuries and became unconscious. Scooter was damaged. On inquiry the name of the driver was revealed as Kallan son of Mahabir resident of Bhora Kalan. Kanta Devi was got hospitalized. Complainant Hari Singh made statement Ex.PW3/A to the police at bus stand Kharak Kalan to Anup Singh ASI Incharge of Police Post Kharak Kalan”.

After hearing learned counsel for the parties and on going through the judgments passed by the learned Courts below, this Court is of the considered view that the petitioner has rightly been convicted of the charges under Section 279 and 304-A IPC. Regarding accident in question, the prosecution examined complainant Hari Singh as PW5 and injured Kanta Devi as PW6. The mechanical report in respect of the offending vehicle has been brought on record by the prosecution by examining PW8 Charan Dass, Mechanic. PW1 Dr. K.D.Sharma, testified about the medical evidence. Under these circumstances, no case is made out for any interference in the conviction of the petitioner for the offences under Sections 279 and 304-A IPC.

Learned counsel for the petitioner has submitted that the petitioner is a poor person and sole bread winner of his family consisting of wife and two children. He is a first offender. He is presently on bail pursuant to the order passed by this Court on 14.1.2008. Since then, he has not misused the concession of bail in any manner. It is also submitted that out of the sentence of six months imposed upon him, he has already undergone an actual sentence of one month. He is facing the agony of criminal prosecution for the last more than eighteen years. Prayer has, accordingly, been made for reducing the sentence of imprisonment of the petitioner to the one already undergone by

him.

Learned State counsel has vehemently opposed the prayer by submitting that petitioner while driving his car in a rash and negligent manner had caused the accident, as a result of which, Pardeep had died and his wife Kanta Devi received injuries. Learned State counsel has, however, produced the custody certificate, as per which, he has undergone an actual sentence of one month and one day. He is not shown to be involved or convicted in any other case.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing remaining sentence of imprisonment imposed upon him. Ends of justice would be amply met, if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine of Rs.500/- already imposed upon him for the offence under Section 304-A IPC can be enhanced to Rs.50,000/-, so that the same may be paid to the legal heirs of deceased Pardeep, as compensation.

Resultantly, the conviction of the petitioner for the offences under Sections 279 and 304-A IPC is upheld. Fine of Rs.500/- for the offence under Section 279 IPC alongwith its default clause is maintained. The substantive sentence of

imprisonment for six months imposed upon him for the offence under Section 304-A IPC is reduced to the one already undergone by him. The fine of Rs. 500/- imposed upon him for the offence under Section 304-A IPC is enhanced to Rs.50,000/-, which shall be deposited by him with the trial Court within a period of three months, failing which, he shall undergo rigorous imprisonment for four months. The enhanced amount of fine under Section 304-A IPC, if deposited by him, be disbursed to the legal heirs of deceased Pardeep, as compensation.

The revision is, accordingly, disposed of.

April 27, 2016
amit rana

(T.P.S. MANN)
JUDGE