

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

**Criminal Revision 108 of 2008**

Date of Decision : September 1, 2016

|                  |        |                 |
|------------------|--------|-----------------|
| Vijay Kumar      |        | .....Petitioner |
|                  | Versus |                 |
| State of Haryana |        | .... Respondent |

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

Present : Mr. Sandeep Kotla, Advocate  
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

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

The petitioner was tried for committing offences punishable under Sections 279 and 304-A IPC. Vide judgment and order dated 15/16.2.2006, learned Sub-Divisional Judicial Magistrate, Hansi, convicted him for the offence under Section 279 IPC and sentenced him to undergo rigorous imprisonment for three months and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for seven days. He was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. Both the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentence, the

petitioner preferred an appeal but remained unsuccessful as the learned Additional Sessions Judge, Hisar, vide judgment dated 24.10.2007 found no illegality or infirmity in his conviction and sentence and, accordingly, dismissed the appeal.

Still not satisfied, the petitioner preferred the present revision, which stood admitted and vide order dated 23.1.2008, his sentence of imprisonment was suspended.

The case of the prosecution, in nutshell, is that on 24.8.1997, complainant Gobind Ram and his cousin sister Gudiya, daughter of Subhash Chand were going from Delhi Gate, Hansi to Chopta Bazaar and when they reached Ramayan Mohalla Chowk, one vehicle make Tata bearing registration No. HR-39-0694 driven by its driver at a very fast speed and negligently came and after turning towards Ramayan Mohalla, its side hit Gudiya, who fell down and was run over by the rear wheel of the said vehicle. The offending driver stopped his vehicle at some distance and, thus, his name and address came to be known. Due to the accident, both the thighs of Gudiya were fractured. She was immediately taken to General Hospital, Hansi, where she succumbed to the injuries received by her in the accident. On the basis of the statement made by complainant Gobind Ram, FIR No. 408 dated 24.8.1997 under Sections 279/304-A IPC came to be registered against the petitioner at Police Station City,

Hansi.

Having heard learned counsel for the parties, this Court finds that the prosecution had led cogent and convincing evidence to establish that the accident in question had taken place on account of rash and negligent driving of the Tata vehicle by the petitioner. When the petitioner turned his vehicle towards Ramayan Mohalla, the side of his vehicle hit Gudiya, who fell down. The rear wheel of the vehicle ran over her thighs. As a result, both her thighs were fractured. She was, thereafter, taken to the hospital but could not survive. While appearing before the trial Court as PW3, complainant Gobind Ram deposed on the aforementioned lines. His testimony stood corroborated by PW4 Ramesh, who had seen the occurrence, as at the relevant time, he was present in the market close by. He had also named the petitioner in his statement recorded under Section 161 Cr.P.C. as well as before the trial Court. Despite subjecting PW3 Gobind Ram and PW4 Ramesh to lengthy cross-examination, the defence could not bring on record any material, from which, it could be said that the petitioner has been falsely implicated in the present case. The medical evidence by way of testimony of PW1 Dr. K.S. Rathor lends independent corroboration to the prosecution case.

In view of the above, no case is made out for any interference in the conviction of the petitioner for the offences under

Sections 279 and 304-A IPC.

As regards the question of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last more than nineteen years. He is stated to be a first offender and sole bread winner of his family. As per the prosecution, he had not run away from the spot. Rather, he had stopped his vehicle at some distance. As per the custody certificate produced by the learned State counsel, the petitioner has already undergone an actual sentence of three months and nine days out of the sentence of one year imposed upon him. There is no material on record, which could indicate that after being granted the concession of suspension of sentence by this Court, he has misused the same in any manner.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellant behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine amount can be enhanced so as to compensate the legal heirs of the deceased.

Resultantly, the conviction of the petitioner under Sections 279 and 304-A IPC is upheld. His substantive sentences of imprisonment on both the counts are reduced to the one already

undergone by him. The fine of Rs.500/- under Section 279 IPC along with its default clause is maintained. However, the fine of Rs.1,000/- under Section 304-A IPC is enhanced to Rs.25,000/-. The enhanced amount of fine be deposited by the petitioner before the learned Chief Judicial Magistrate, Hisar, within three months from today, failing which, he shall be required to undergo rigorous imprisonment for six months. The enhanced amount of fine, when deposited by the petitioner, be disbursed to the legal heirs of deceased Gudiya, as compensation.

The revision is, accordingly, disposed of.

**September 1, 2016**  
amit rana

**( T.P.S. MANN )**  
**JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No