

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

Crl. Revision 1099 of 2008
Date of Decision : November 11, 2016

Surinder

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Sanjay Jain, Advocate

Mr. Praveen Bhadu, Asstt. A.G., Haryana

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

The petitioner was tried for committing the offences punishable under Sections 279, 337 and 304-A IPC. Vide judgment and order dated 2/3.3.2007, learned Sub Divisional Judicial Magistrate, Pehowa convicted him for the aforementioned offences and sentenced him as below:-

- i) Rigorous imprisonment for two months and to pay a fine of Rs. 500/- for the offence under Section 279 IPC;
- ii) Rigorous imprisonment for two months and to pay a fine of Rs. 300/- for the offence under Section 337 IPC; and
- iii) Rigorous imprisonment for eight months and to pay a fine of Rs. 700/- for the offence under Section 304-A IPC.

In default of payment of fine, the petitioner was required to further undergo rigorous imprisonment for a period of three months. All the sentences were ordered to run concurrently. The fine imposed was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 4.6.2008, learned Sessions Judge, Kurukshetra acquitted him of the charge under Section 337 IPC but upheld his conviction and sentence of imprisonment and fine for the offences under Sections 279 and 304-A IPC.

Still not satisfied, the petitioner preferred the present revision in which he is on bail pursuant to the order dated 13.8.2008 passed by this Court.

The case of the prosecution has been noticed by the learned lower Appellate Court in paragraphs 3 and 4 of its judgment which is reproduced here-in-below:-

“In the morning of 8.8.1999, ASI Maya Chand of Police Station Pehowa received an information on telephone regarding an accident near Hamira Farm on Guhla road, Pehowa. He accompanied by his police party approached the said place where complainant Rajinder Singh got recorded his statement which formed the basis of FIR.

According to the allegations, complainant

Rajinder Singh son of Kartar Singh was serving as driver in Haryana Roadways, Sub Depot Pehowa. In the morning of 8.8.1999, he was going to his village Sair by travelling in bus No. HR37-1062, which was bound from Pehowa to Guhla Cheeka. At about 6.15 a.m. when he reached near Hamira Farm, he saw that two trucks were already parked on the road and the offending jeep bearing No. HR01H-5851 loaded with passengers was coming from Cheeka side. The jeep driver due to high speed suddenly rammed his jeep into the truck. The bus driver stopped the bus. The complainant alighted from the bus. At that time, witnesses Balbir Singh son of Anoop Singh and Hardwari Lal son of Salam Ram also came from the fields. Three passengers had died at the spot. One dead body was lying inside the jeep, whose name came to be known from the diary as Ramesh Chand son of Om Prakash, Guhla road Cheeka. One dead body was lying near the jeep who was his uncle's son Sadhu Singh, Driver, Haryana Roadways, Sub Depot, Pehowa. The complainant identified his dead body. The third person was lying dead in the kacha portion. His name was Rajbir Kaushik son of Jagdish Parshad as came to be known from the diary found in his pocket. The jeep driver and two other passengers also received injuries who were taken to Government Hospital, Pehowa. In front of the offending jeep No. HR01H-5851, truck No. HR45-1959 loaded with rice was standing in the middle of the road. The jeep was being driven

rashly, negligently and at a fast speed. Truck No. HR45-1959 which was going ahead of the jeep had stopped suddenly. The driver of the jeep alongwith the Cleaner whose name came to be known as Billa son of Hardev and another person who was injured, were shifted to the hospital. According to the complainant, the accident occurred due to the negligence of the jeep driver and the aforesaid truck going ahead. In front of this truck, another truck bearing No. HRU-4195 was standing which was out of order. After registration of the case, the inquest proceedings on the dead bodies were conducted. The dead bodies were sent to the hospital for post mortem examination. The jeep as well as the truck were taken into possession. Spot was visited. Site plan was prepared. Place of accident was got photographed. Appellant Surinder, driver of offending jeep No. HR01H-5851 and Vijay Singh driver of truck No. HR45-1959 were arrested. After necessary investigations were over, the case was sent up for trial of the appellant as well as Vijay Singh.”

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner for the offences under Sections 279 and 304-A IPC. He has, however, submitted that the petitioner is facing the agony of criminal prosecution for the last more than seventeen years. He is a first offender. He is the sole bread winner of his family consisting of wife and a child besides old parents. He has also submitted that out of the

sentence of eight months imposed upon him, he has already undergone a period of about three months. Prayer has, accordingly, been made for setting aside his remaining substantive sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that on account of the rash and negligent driving of the petitioner, three persons lost their valuable lives.

Custody certificate has already been produced by the learned State counsel, as per which the petitioner has undergone an actual sentence of two months and twenty days. He is also not shown to be involved or convicted in any other criminal case.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing his remaining substantive 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 of Rs. 700/- imposed upon him for the offence under Section 304-A IPC can be suitably enhanced.

Resultantly, the conviction of the petitioner for the offences under Sections 279 and 304-A IPC is upheld. His substantive sentence of imprisonment on both the counts shall

stand reduced to the one already undergone by him. The fine of Rs. 500/- imposed upon him for the offence under Section 279 IPC is upheld. However, the fine of Rs. 700/- imposed for the offence under Section 304-A IPC is enhanced to Rs. 25,000/-. The enhanced amount of fine be deposited by the petitioner with the learned trial Court within three months from today, failing which he shall be required to undergo rigorous imprisonment for a period of four months.

The revision is, accordingly, disposed of.

November 11, 2016
ajay-1

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No