

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

Criminal Revision 1135 of 2008

Date of Decision : November 17, 2016

Balbir		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Ms. Divya, Advocate for
Mr. Vinod S. Bhardwaj, 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, 337, 338 and 304-A IPC. Vide judgment and order dated 30/31.1.2007, learned Chief Judicial Magistrate , Narnaul, after convicting him for the aforementioned offences, sentenced him to undergo imprisonment and pay fine, as under:-

- (i) Simple imprisonment for one and half years and to pay a fine of Rs.500/- for the offence under Section 304-A IPC;
- (ii) Simple imprisonment for one year and to pay a fine of Rs.200/- for the offence under Section 338 IPC; and
- (iii) Simple imprisonment for six months for the

offence under Section 337 IPC.

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 but got no reprieve as the same came to be dismissed by the learned Sessions Judge, Narnaul, vide judgment dated 14.6.2008. Still not satisfied, he filed the present revision, in which, initially notice was issued limited to the quantum of sentence. Subsequently, vide order dated 26.9.2008, this Court while admitting the revision, suspended his sentence of imprisonment.

According to the prosecution on 19.2.1999, the petitioner while driving a Matador bearing registration No.HR-47-3621 in a rash and negligent manner struck against the tractor trolley coming from the opposite side, which tractor was being driven by complainant Sitar Singh. The petitioner had taken the Matador to the wrong side while causing the accident. As a result, the tractor turned turtle and the complainant was injured. The passengers travelling by the Matador also suffered injuries. Subsequently, Smt. Yashoda wife of Kailash, who had also received injuries in the accident, succumbed to the same.

Learned counsel for the petitioner has submitted that the petitioner is facing the agony of criminal prosecution for the last about

eighteen years. He is a poor person and required to look-after his family as well as old and aged mother. He is not a previous convict. Out of the sentence of one and half years imposed upon him, he has also undergone a period of about four months. Prayer has, accordingly, been made for reducing his substantive sentences of imprisonment to the one already undergone by him.

Learned State counsel has vehemently opposed the prayer by submitting that the accident had taken place on account of rash and negligent driving of the petitioner and as a result thereof, one person had lost her life whereas thirteen persons had received injuries, including fractures.

As per the custody certificate already brought on record by the learned State counsel, the petitioner has already undergone an actual sentence of three months and sixteen days. He is also not shown to be involved or convicted in any other case.

After hearing learned counsel for the parties and 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 imposed upon him for the offence under Section 304-A IPC can be suitably enhanced so as

to compensate the legal heirs of deceased Smt. Yashoda.

Resultantly, the conviction of the petitioner for all the offences is upheld. His substantive sentences of imprisonment, on all the counts, shall stand reduced to the one already undergone by him. The fine imposed for the offence under Section 338 IPC alongwith its default clause is maintained. However, the fine of Rs.500/- imposed for the offence under Section 304-A IPC is enhanced to Rs.40,000/-. The enhanced amount of fine, i.e. Rs.39,500/- be deposited by the petitioner with the trial court within three months from today, failing which, he shall be required to undergo simple imprisonment for six months. The enhanced amount of fine, when deposited by the petitioner, be disbursed in favour of legal heirs of deceased Smt. Yashoda wife of Kailash, as compensation.

The revision is, accordingly, disposed of.

November 17, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No