

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

Criminal Revision 1496 of 2008

Date of Decision : November 17, 2016

Nigam Dutt		Petitioner
	Versus	
The State of Haryana		 Respondent

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

Present : Mr. Ashok Tyagi, 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 26.11.2007, learned Judicial Magistrate 1st Class, Gurgaon, convicted him for the aforementioned offences and sentenced him as follows:-

- (i) Rigorous imprisonment for six months and to pay a fine of Rs.1,000/- for the offence under Section 279 IPC and in default of payment of fine, to further undergo simple imprisonment for ten days; and
- (ii) Rigorous imprisonment for two years and to pay a fine of Rs.2,000/- for the offence under Section 304-A IPC and in default of payment of fine, to further undergo simple imprisonment

for twenty days.

Both 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 could not obtain any relief as it came to be dismissed by the learned Additional Sessions Judge (Fast Track Court) Gurgaon vide judgment dated 14.7.2008. Still not satisfied, he filed the present revision, which was admitted on 17.10.2008 and his sentence was also suspended.

The prosecution case, in nutshell, is that on 23.12.1999 at about 5.15 p.m., the petitioner had driven Marshall jeep bearing registration No. HR-28-6588 in a rash and negligent manner and hit Kabir Ahmed, aged nine years, and Talim Hussain, aged seven years, younger brothers of complainant Deen Mohd. As a result of the injuries sustained in the accident both Kabir Ahmed and Talim Hussain had died. The occurrence was witnessed by complainant Deen Mohd. and Samsudin.

It is not in dispute that the petitioner was apprehended at the spot itself and, therefore, he cannot plead that he was not the one responsible for causing the accident. On the other hand, PW1 Deen Mohd. and PW2 Samsudin categorically testified about the rash and negligent driving of the Marshall jeep by the petitioner. 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.

Coming to the quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last about seventeen years. He claims himself to be a poor person and sole bread winner of his family. Besides, he is a first offender.

As per the custody certificate produced by the learned State counsel, the petitioner has already undergone an actual sentence of three months and seven days.

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 the him for the offence under Section 304-A IPC can be suitably enhanced so as to compensate the legal heirs of deceased Kabir Ahmed and Talim Hussain.

Resultantly, the conviction of the petitioner for the offences under Sections 279 and 304-A IPC is upheld. The fine of Rs.1,000/- for the offence under Section 279 IPC alongwith its default clause is maintained. However, the fine of Rs.2,000/- imposed for the offence

under Section 304-A IPC is enhanced to Rs.1,00,000/-. The enhanced amount of fine be deposited by him with the trial Court within three months from today, failing which, he shall be required to undergo simple imprisonment for a period of six months. The enhanced amount of fine, when deposited by the petitioner, be disbursed in favour of legal heirs of deceased Kabir Ahmed and Talim Hussain, as compensation.

The revision is, accordingly, disposed of.

November 17, 2016	(T.P.S. MANN)
amit rana	JUDGE
Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No