

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision 47 of 2008

Date of Decision : August 3, 2016

Narveer

.....Petitioner

Versus

State of Haryana

..... Respondent

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

Present : Mr. Mohd. Yousaf Advocate
for the petitioner.

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

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

The petitioner was tried for committing offences punishable under Sections 279 and 304-A IPC on the allegations that on 11.9.1999 at about 2.00/2.30 p.m., he while driving Tata Sumo bearing registration No. DL-8C-B-0418 in a rash and negligent manner struck it against Bhuru @ Deepak, seven years' old child, as a result of which, said Bhuru @ Deepak was dragged to some distance and died at the spot. Vide judgment and order dated 5/7.12.2006, learned Judicial Magistrate 1st Class, Gurgaon, convicted the petitioner under Section 279 IPC and sentenced him to undergo rigorous imprisonment for three months. He was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo simple

imprisonment for a period of fifteen days.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. However, vide judgment dated 4.1.2008, learned Additional Sessions Judge, Fast Track Court, Gurgaon, while finding no merit in the appeal, dismissed the same. At the same time, the substantive sentences of imprisonment were ordered to run concurrently.

Still not satisfied, the petitioner preferred the present revision, which came to be admitted by this Court on 11.3.2008 and currently, he is on bail.

Having heard learned counsel for the parties and keeping in view the testimonies of PW1 Tejpal, PW2 Rishi Pal and PW8 Vijay Singh, this Court finds that the prosecution has been able to substantiate its charges against the petitioner of having driven Tata Sumo in a rash and negligent manner and after striking it against Bhuru @ Deepak, caused his death. The medical evidence brought on record by the prosecution corroborates the testimonies of the aforementioned three eye-witnesses. Regarding the identity of the petitioner, both PW1 Tejpal and PW2 Rishi Pal had identified him at the trial of the 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.

Coming to the question of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last about seventeen years. Presently, he is on bail pursuant to order passed by this Court on 11.3.2008. There is no allegation that during the pendency of the revision, he has misused the concession. Further, when he was heard by the trial Court on the quantum of sentence, he had stated that he was a poor person and sole bread winner of his family. As per the custody certificate produced by the learned State counsel, the petitioner has undergone an actual sentence of two months and nine days. He is not shown to be involved or convicted in any other criminal case. At the same time, it may be noticed that on account of rash and negligent driving of the petitioner, an innocent child of seven years had lost his life.

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 sentence of imprisonment. Ends of justice will be suitably met, if his substantive sentences of imprisonment on both the counts are reduced to the one already undergone by him. At the same time, the fine imposed upon him under Section 304-A IPC can be enhanced so as to disburse the same to the legal heirs of deceased-Bhuru @ Deepak, as

compensation.

Resultantly, the conviction of the petitioner under Sections 279 and 304-A IPC is upheld. His substantive sentences 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 304-A IPC is, however, enhanced to Rs.50,000/-. 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 three months. In the event of the petitioner depositing the enhanced amount of fine, it shall be disbursed to the legal heirs of deceased Bhuru @ Deepak, as compensation.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

August 3, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No