

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

Criminal Revision 753 of 2008
Date of Decision : September 7, 2016

Raj Pal	VERSUS	Petitioner
The State of Haryana		Respondent

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

Present : Mr. Sushil Sheoran, Advocate for
Mr. R.A.Sheoran, 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 10/12.4.2006, learned Additional Chief Judicial Magistrate, Sirsa convicted him under Section 279 IPC and sentenced him to undergo rigorous imprisonment for six months. He was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- and in default of payment of fine, to undergo simple imprisonment for two months. Both the substantive sentences of imprisonment were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide order dated 11.4.2008,

learned Sessions Judge, Sirsa after holding that there was no merit in the appeal, dismissed the same. Still not satisfied, the petitioner preferred the present revision, which came to be admitted on 24.4.2008 and his sentence of imprisonment was suspended.

According to the prosecution, on 12.9.1996 at about 7.30/8.00 p.m., complainant Madan Lal and his elder brother Gulzari Lal, who were in the profession of Bakery and used to supply biscuits etc., in the villages were returning to their house. Gulzari Lal was going ahead on a moped whereas complainant was following him on another moped. On the way, a jeep being driven by its driver in a rash and negligent manner came from the opposite side. Gulzari Lal took his moped towards the katcha portion of the road but the driver of the jeep dashed his jeep against his moped. Gulzari Lal was also dragged to some distance. The complainant went forward and noticed that his brother had become unconscious. On seeing the complainant, the driver of the jeep fled away after leaving the jeep at the spot. The complainant then transported his brother Gulzari Lal to Sirsa but on the way he succumbed to his injuries.

Having heard learned counsel for the parties, this Court finds that the prosecution has been able to prove the charges under Sections 279 and 304-A IPC against the petitioner. Complainant Madan Lal while appearing before the trial Court as PW3 has described the manner, in which, the accident was caused by the petitioner while driving the jeep in a rash and negligent manner and taking it to the wrong side of the road and in the process the jeep hit

the moped, which Gulzari Lal (since deceased) was driving. His version is duly corroborated by Dr. C.P. Dadhich, Medical Officer, General Hospital Sirsa, who appeared as PW7. Merely because, PW2 Makhan Singh did not support the case of the prosecution is no ground to acquit the petitioner of the charges against him. During the investigation of the case police collected sufficient material to come to the conclusion that it was the petitioner, who had caused the accident. Accordingly, this Court has no other option, but to uphold the conviction of the petitioner for the charges 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 about twenty years. When he was examined by the trial Court under Section 248(2) Cr.P.C., he had stated that he was the sole bread winner of his family and required to look after his aged parents and also his three children. Further, he was a first offender.

As per the custody certificate produced by the learned State counsel, the petitioner has undergone an actual sentence of twenty three days. The petitioner is not shown to be either involved or convicted in any other criminal case. There is also no material on record, from which, it could be said that after being granted the concession of bail by this Court vide order dated 24.4.2008, he has misused the concession 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 petitioner behind the bars, once again, for undergoing the remaining sentences of imprisonment imposed upon him. Ends of justice shall be suitably met, if the same are reduced to the one already undergone by him. At the same time, the fine of Rs.500/- imposed upon the petitioner for the offence under Section 304-A IPC can be enhanced so as to compensate the legal heirs of deceased Gulzari Lal.

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/- imposed upon him for the offence under Section 304-A IPC is, however, enhanced to Rs.40,000/-. As the petitioner had paid the fine of Rs.500/- after being convicted and sentenced by the trial Court, he shall pay the enhanced amount of fine before the trial Court within three months from today, failing which, he shall be required to undergo simple imprisonment for six months. In the event of the petitioner depositing the enhanced amount of fine, it be disbursed to the legal heirs of deceased Gulzari Lal, as compensation.

The revision is, accordingly, disposed of.

September 7, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No