

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision 841 of 2008

Date of Decision : December 23, 2016

Ram Parkash		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. Pankaj Bali, 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 under Sections 279, 337, 338 and 304-A IPC. Vide judgment and order dated 4/6.5.2006, learned Chief Judicial Magistrate, Kaithal, convicted him for the offences under Sections 279 and 304-A IPC only and sentenced him as under:-

1. Simple imprisonment for three months and to pay a fine of Rs.500/- under Section 279 IPC and in default of payment of fine, to further undergo simple imprisonment for one month; and
2. Simple imprisonment for one year and to pay a fine of Rs.1,000/- under Section 304-A IPC and in default of payment of fine, to further undergo simple imprisonment for three months.

Both the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as it came to be dismissed by learned Sessions Judge, Kaithal vide judgment dated 22.4.2008. Still not satisfied, the petitioner preferred the present revision, which was admitted on 4.7.2008 on the limited issue of quantum of sentence.

According to the prosecution, on 14.2.1997 at about 6.00 p.m., complainant Arun Kumar alongwith Ram Gopal was coming on a moped from the side of village Barna towards Dhand. They were accompanied by Zile Singh and Subhash, who were on another moped bearing registration No. HR-07A-4051. At about 6.25 p.m., when they were about a kilometer ahead of village Pabnwa, a Haryana Roadways bus bearing registration No. HR-37-2283 being driven by the petitioner at a very high speed and in a rash and negligent manner came from the side of village Dhand and struck against the moped bearing registration No. HR-07A-4051. As a result of this accident, Zile Singh died at the spot whereas Subhash became unconscious. After the accident, bus struck against the kikkar trees and as a result, a number of passengers of bus also received injuries. Subsequently, Subhash also succumbed to the injuries received by him in the accident.

Learned counsel for the petitioner does not challenge the findings arrived at by the Courts below while convicting him for the offences under Sections 279 and 304-A IPC. However, it is submitted that the petitioner is facing the agony of criminal proceedings for the last about twenty years. He is not a previous convict. He is the one, who is looking after his family consisting of old parents, wife and children. He is presently on bail pursuant to the order passed by this Court on 4.7.2008. Out of the sentence of one year imposed upon him, he has already undergone a period of about 2½ months. It has also been stated that legal heirs of the deceased have already been granted compensation by the learned Motor Accident Claims Tribunal. Prayer has, accordingly, been made for granting the concession of probation to him or, in the alternative, for reduction in his 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, two valuable lives were lost whereas a couple of passengers sitting in the bus had received injuries. It has also been submitted that no case is made out for extending the benefit of probation to the petitioner.

As per the custody certificate already brought on record by the learned State counsel, the petitioner has undergone total sentence

of two months and fourteen days. He is also not shown to be either involved or convicted in any other case.

After hearing learned counsel for the parties, this Court is of the view that the petitioner does not deserve the concession of probation, as on account of his rash and negligent driving two human lives were lost. However, keeping in view of the fact that the petitioner is facing the agony of criminal prosecution for about twenty years; he is not a previous convict; he is the one, who is looking after his family; legal heirs of the deceased have since received compensation from the Motor Accident Claims Tribunal; and out of the sentence of one year imposed upon him, he has also undergone for a period of about 2½ months, his substantive sentence can be reduced to the one already undergone by him. At the same time, he can also be directed to compensate the legal heirs of the deceased.

Resultantly, the conviction of the petitioner under Sections 279 and 304-A IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him whereas the fine imposed upon him for the offence under Section 304-A IPC is enhanced from Rs.1,000/- to Rs.51,000/-. The enhanced amount of fine, i.e. Rs.50,000/- be deposited by him with the trial Court within three months from today, failing which, he shall be required to undergo simple imprisonment for four months. The

enhanced amount of fine, if deposited by the petitioner, be disbursed in favour of legal heirs of the two deceased in equal shares. The fine of Rs.500/- imposed for the offence under Section 279 IPC alongwith its default clause is maintained.

The revision is, accordingly, disposed of.

December 23, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No