

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

Criminal Revision 892 of 2008

Date of Decision : November 4, 2016

Virender		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. N.K.Malhotra, 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 on the allegations that on 9.10.1998 at about 2.00 p.m., he had driven truck bearing registration No. HR-46-6164 at a high speed and in a rash and negligent manner and while doing so, hit the scooter driven by Surender (deceased) from behind. As a result, Surender fell on the road and died at the spot. Vide judgment and order dated 6/8.11.2004, learned Sub-Divisional Judicial Magistrate, Bahadurgarh convicted him for the offence under Section 279 IPC and sentenced him to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.200/-. He was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-. Both the sentences were ordered to run

concurrently. In default of payment of fine, he was required to further undergo rigorous imprisonment for one month. 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 Additional Sessions Judge, Jhajjar vide judgment dated 10.4.2008. Still not satisfied, he filed the present revision, in which, initially notice of motion was issued regarding sentence. Subsequently, on 26.9.2008, the revision came to be admitted and his sentence was also suspended.

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner for the offences under Sections 279 and 304-A IPC. He has, however, submitted that the petitioner is facing the agony of criminal prosecution for the last more than eighteen years. He is a first offender. He is the only one to look-after his family, which includes his aged father as well. It is also submitted that out of the sentence of one year imposed upon him, he has already undergone an actual sentence of about six months. He is on bail for the last more than eight years. There is no allegation that he has misused the concession of bail in any manner. Prayer has, accordingly, been made for setting aside his remaining substantive sentence of imprisonment.

Learned State counsel has opposed the prayer by

submitting that the death of Surrender occurred on account of rash and negligent driving of the truck by the petitioner by hitting his truck behind the scooter of the deceased.

As per the custody certificate dated 23.9.2016 already brought on record by the learned State counsel, the petitioner has undergone an actual sentence of five months and twenty six days. Besides, he has earned remission of one month and two days. In all, he has served sentence of six months and twenty eight days. He is also not shown to be either 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 sentences of imprisonment. Ends of justice shall be suitably met, if his substantive sentences of imprisonment are reduced to the one already undergone by him. At the same time, he can be directed to pay some additional amount as fine so that the same may be paid to the legal heirs of deceased Surrender, as compensation.

Resultantly, the conviction of the petitioner for the offences 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. In addition to the fine already imposed upon him and duly deposited, he shall pay a sum of Rs.20,000/- as

fine, which 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. The additional amount of fine, if deposited by the petitioner, be disbursed in favour of legal heirs of deceased Surender, as compensation.

The revision is, accordingly, disposed of.

November 4, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No