

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

Crl. Revision 222 of 2009

Date of Decision : April 06, 2016

Joginder Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. B.S.Bairagi, Advocate

Mr. Dhruv Dayal, Deputy A.G., Haryana.

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

The petitioner was tried for committing the offences punishable under Sections 279, 337 and 304-A IPC on the allegations that on 30.3.1999 at about 3.30 a.m., he drove truck bearing registration No. HR-05A-9232 at a fast speed and in a rash and negligent manner and ran over the pilgrims, who were returning from a Mela. As a result thereof, Ravi, Bedo Devi, Sheela and Shyam Lal suffered injuries and succumbed to them at the spot whereas Reeta Devi received the injuries. Vide judgment and order dated 7.12.2007, learned Judicial Magistrate 1st Class, Kurukshetra held him guilty for the aforementioned offences and sentenced him as follows:-

- (i) Rigorous imprisonment for six months and to pay a fine of Rs. 600/- under Section 279 IPC;
- (ii) Rigorous imprisonment for a period of six months and to pay a fine of Rs. 400/- under Section 337 IPC; and

- (iii) Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- under Section 304-A IPC.

In default of payment of fine, the petitioner was sentenced to further undergo rigorous imprisonment for a period of four months. All the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentences, the petitioner filed an appeal. Vide judgment dated 7.1.2009, learned Additional Sessions Judge, Kurukshetra upheld the conviction of the petitioner for the offences under Sections 279, 337 and 304-A IPC. His sentences of imprisonment and fine for the offences under Sections 279 and 337 IPC were also maintained. However, his substantive sentence of imprisonment of two years for the offence under Section 304-A IPC was reduced to rigorous imprisonment for one year and six months. The sentence of fine of Rs. 1,000/- alongwith its default clause was maintained. All the sentences were ordered to run concurrently.

The case of the prosecution, as noticed by the lower appellate Court in para 3 of its judgment, is re-produced here below:-

“According to the allegations, complainant Ram Parkash son of Tony Ram was a labourer by profession. In the morning of 30.3.1999 his wife Sugni Devi, Bittu son of Parkash Jogi, Sheela wife

of Parkash Jogi, Ved Parkash son of Jyoti Ram, his wife, his son Ravi aged 5 years, Rita Devi daughter of Ved Parkash aged 11 years and Shyam Lal son of Sadhu Ram, all residents of Village Ban were returning from the Mela of Bala Sundri Mata, Ladwa and were going to their village Ban on their due left side of the road. At about 3.30 a.m., when they reached near Ban octroi at police picket (Naka), at that time the offending truck bearing registration No. HR-05A-9232 being driven by the appellant rashly, negligently and at a high speed came from the front side and ran over the pilgrims and then the truck stopped on the kacha portion on wrong side. The appellant fled away from the spot after abandoning the truck at the spot. In the accident, Ravi son of Ved Parkash, Bedo Devi, Sheela wife of Parkash Jogi and Shyam Lal son of Sadhu Ram died at the spot, whereas Reeta Devi received injuries. The accused took place due to rash and negligent driving of the appellant while driving the above said offending truck.”

Having heard learned counsel for the parties and on going through the judgments passed by the learned Courts below, this Court is of the considered view that the prosecution has been successful in establishing that the petitioner had driven the truck in a rash and negligent manner and in the accident so caused, four persons died whereas one received injuries. In this regard, reference may be made to the testimonies of PW1 Ram Parkash, PW3 Ved Parkash, PW4 Mohan Lal, PW5 Sat Pal, PW9 Bittu,

PW14 Reeta Devi and PW15 Sugni Devi, who were present at the spot at the time of the occurrence and had witnessed the causing of the accident by the petitioner. Under these circumstances, no case is made out for any interference in the conviction of the petitioner for the various offences.

Coming to the quantum of sentence, which is to be imposed upon the petitioner, it may be worthwhile to notice that during his examination under Section 248 Cr.P.C., the petitioner had prayed that he was a poor person and having small children and old parents to look after. He is the only bread winner. He is facing the agony of criminal prosecution for the last more than seventeen years. He is not shown to be a previous convict. As per the custody certificate produced by the learned State counsel, the petitioner has already undergone an actual sentence of three months and two days. He is on bail since 25.3.2009. There is no material on the record which could indicate that the petitioner has misused the concession of bail.

Taking into consideration the totality of the circumstances, this Court is of the considered view that the sentence of imprisonment of the petitioner on various counts can be reduced to the one already undergone by him. At the same time, the fine imposed upon him for the offence under Section 304-A IPC can be suitably enhanced.

Resultantly, the conviction of the petitioner for the offences under Sections 279, 337 and 304-A IPC is upheld. His substantive sentences of imprisonment on all the counts shall stand reduced to the one already undergone by him. The fine of Rs. 600/- for the offence under Section 279 IPC and Rs. 400/- for the offence under Section 337 IPC is upheld. However, the fine of Rs. 1,000/- imposed upon him for the offence under Section 304-A IPC is enhanced to Rs. 20,000/-. He has already deposited the fine imposed upon him by the trial Court. The enhanced amount of fine for the offence under Section 304-A IPC be deposited by him with the trial Court within three months from today failing which he shall undergo rigorous imprisonment for a period of four months.

The revision is, accordingly, disposed of.

April 06, 2016
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(T.P.S. MANN)
JUDGE