

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

**CRR No.1 of 2010 (O&M)
Date of Decision: August 23, 2016**

Raj Kumar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rahul Vats, Advocate
for the petitioner.

Mr.Vikas Chopra, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Raj Kumar under Section 401 Cr.P.C. against respondent State of Punjab, challenging the impugned judgment of conviction dated 05.06.2008 and order of sentence dated 07.06.2008 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹1,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of fifteen days under Section 279 IPC and further to undergo rigorous imprisonment for a period of two years and to pay fine of ₹3,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 304-A IPC

and also challenging the judgment dated 03.11.2009 passed by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri, vide which appeal filed by petitioner was dismissed but the sentence of the petitioner was reduced and he was directed to undergo rigorous imprisonment for a period of one year instead of two years under Section 304-A IPC and the other sentence and fine were kept the same. Both the sentences were ordered to run concurrently.

From the record, I find that challan was presented against Raj Kumar in case FIR No.115 dated 26.04.1999 under Sections 279 and 304-A IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Yamuna Nagar at Jagadhri, are as under:-

“2. Present case has been got registered on the statement of Jagdish Singh son of Shri Lal Singh, resident of House No.618, Shyam Sunder Puri Jagadhri. It had been maintained by the complainant in his statement that he had taken a Saw Machine on lease on Ambala Road. On 26.04.1999 at about quarter to 4.00 P.M. he along with his servant Sadhu Ram were sitting on the chairs just outside their saw machine and in the mean time one old aged woman was seen coming from the side of Maharshi Vidhya Mandir, Ambala towards Jagadhri on foot. The old aged lady was walking on her correct left side and in the mean time one Yamaha motor-cycle bearing registration No.HR-02B-9433 had come the side of Ambala and two persons were travelling on the said motor-cycle. The motor-cycle driver was driving the motor-cycle at a very high speed and in rash and negligent manner and had hit the old lady and had dragged her with the motor-cycle up to the distance of 30 paces. The motor-cycle had fallen down and both the motor-cycle riders had received injuries. Police ambulance had arrived at the spot just after 10 minutes of the accident and the injured lady along with both the occupants of the motor-cycle were brought to Jagadhri Hospital and the old aged lady was declared to be brought dead by the Medical Officer and later on her name was disclosed to the Hargyani wife of Baru Ram, resident of Nalagarh Ki Majri and name of the motor-cycle driver was disclosed to be Raj Kumar son of Budh Ram, resident of Prem Nagar, Yamuna Nagar. The motor-cycle driver was under the influence of liquor at that time and liquor bottle was also lying near the motor-cycle. After recording the statement an endorsement was made below it by ASI Ajay

Singh and the statement was sent to Police Station Jagadhri for lodging the FIR and after that another endorsement was also made below the statement. During the investigation site plan of the place of accident was prepared and the motor-cycle bearing registration No.HR-02B-9433, slippers of deceased and a bottle of liquor were also taken into possession by the police. Inquest proceedings were conducted in the hospital and post mortem on the dead body of Smt.Hargyani was also conducted on dated 27.4.1999 and after completion of the post mortem, the dead body was handed over to it's relative. Photographs were taken at the spot and statements of witnesses were recorded. During the investigation accused was arrested and the motorcycle was taken into possession and was also got mechanically examined. After completion of investigation challan as presented in the court for trial."

Learned JMIC, Yamuna Nagar at Jagadhri, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri with the modification in the sentence as stated above, vide judgment dated 03.11.2009.

Aggrieved from the above-said judgments, present revision petition has been filed.

Notice of motion was issued and learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

First of all, I find that at the time of arguments nothing has been pointed out as to which material evidence has been misread and which material evidence has been left to be considered by the Courts below. Nothing has been pointed out as to how the findings given by learned Courts below are perverse or against the evidence. Nothing has been pointed out as to what illegality has been committed by the Courts below

and how the findings are against the law. This is a revision petition. In the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal.

The perusal of the evidence itself shows the rash and negligent act of the present petitioner. The petitioner was driving the motorcycle in such a way that it hit the pedestrian old lady, who was going on foot on right side and then dragged her upto 30 paces. Furthermore, there is no dispute regarding the place and time of occurrence and the identify of the accused-petitioner as the police reached in the meanwhile and took injured old lady, who succumbed to injuries later on, and present petitioner along with pillion rider to the hospital and admitted there. As, the present petitioner also received injuries in the accident, therefore, there is no dispute qua identity of the accused-petitioner also. The PWs have consistently deposed regarding prosecution version. The oral evidence is duly corroborated by the medical evidence.

In view of the above discussion, I find that the findings given by learned Courts below are correct, as per law and in no way, these can be held as perverse. As the sentence imposed upon the petitioner has already been reduced by learned lower Appellate Court and he was directed to undergo rigorous imprisonment for a period of one year instead of two years, therefore, keeping in view the nature and gravity of the offence, I do not find any ground to further reduce the sentence imposed upon the petitioner.

Therefore, finding no merit in the present revision petition, the same is dismissed.

As petitioner Raj Kumar is on bail, his bail bonds stand

cancelled and he is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing which the concerned authority shall proceed against him in accordance with law.

August 23, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No