

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.1300 of 2010

Date of Decision : May 17, 2016

Bijender @ Virender

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. L.S. Chahal, Advocate
for the petitioner.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

T.P.S. MANN, J.

The petitioner was tried for committing offences punishable under Sections 279, 337, 338 and 304-A IPC. Vide judgment and order dated 24.11.2009, learned Sub Divisional Judicial Magistrate, Ganaur convicted him for the aforementioned offences and sentenced him, as mentioned below:-

Section 279 IPC	:	Rigorous imprisonment for six months.
Section 337 IPC	:	Rigorous imprisonment for six months;
Section 338 IPC	:	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for one month; and

Section 304-A IPC	:	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for one month.
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All the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but the same was dismissed by learned Additional Sessions Judge, Sonipat vide judgment dated 5.5.2010. Still not satisfied, he filed the present revision in which he is currently on bail pursuant to order dated 12.5.2010.

The case of the prosecution, in nutshell, is that on 7.12.2001 complainant-Dilbagh, alongwith his brother Randhir, went to Ganaur from their village on a scooter. After doing their work at Ganaur, they started for their village on the same scooter. When they reached at Agwanpur turn, Ganaur, the scooter developed some fault. In the meantime, Siri Krishan s/o Chhote Lal came on Hero Honda motorcycle bearing registration No.HR-42-3439 with Sultan on its pillion seat. Randhir got the motorcycle of Siri Krishan stopped and sat on their motorcycle, whereas the complainant started following the motorcycle on his own scooter. When they reached near the bridge of Rajlu Garhi, one jeep bearing registration No.HR-10D-5286 driven by its driver at a very high speed and in a rash and negligent manner came from behind and hit the motorcycle. As a result, its three occupants, namely, Siri Krishan, Sultan and Randhir fell down and sustained

injuries. Randhir was shifted to Aggarwal Hospital, Ganaur, whereas Siri Krishan and Sultan to Sita Hospital, Ganaur. However, Randhir succumbed to his injuries in the hospital.

Having heard learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that both PW1 Dilbagh and PW2 Siri Krishan have testified on oath that jeep bearing registration No. HR-10-D-5286, while being driven by its driver, i.e. the present petitioner, at a high speed and in a rash and negligent manner, hit the motorcycle bearing registration No. HR-42-3439 from behind. As a result, Siri Krishan, Sultan and Randhir, who were riding the same, received injuries. Out of the three injured, Randhir, later on, succumbed to his injuries. Merely because PW9 Sultan Singh, who had received injuries in the occurrence, did not support the case of the prosecution, is no ground to acquit the petitioner of the charges against him. The testimonies of PW1 and PW2 are duly corroborated by PW5 Dr. Sanjay Jain, who had medico-legally examined Sultan Singh and Siri Krishan, besides PW11 Dr. G.P. Aggarwal, who had medico-legally examined Randhir. PW7 Dr. S.S. Bhogal has also testified about the post-mortem on the dead body of Randhir. Besides, the prosecution has examined various police officials, who deposed about the steps taken by them during the investigation of the case. Under these circumstances, no case is made out for any interference in the conviction of the petitioner for the various offences.

As regards the quantum of sentence, it may be noticed that

the petitioner is facing the agony of criminal prosecution for the last about fifteen years. He claims himself to be a poor person and only bread winner of his family. His family consists of his two children. He is also not a previous convict. Prayer has, accordingly, been made for reducing his sentence of imprisonment to the one already undergone by him.

Learned State counsel has vehemently opposed the prayer by submitting that on account of the rash and negligent driving of the petitioner, three persons had received injuries and out of them Randhir Singh had succumbed to those injuries. Learned State counsel has, however, produced the custody certificate, as per which he has undergone sentence of nine days only, out of the sentence of one year imposed upon him.

Having heard learned counsel for the parties, this Court finds that in the accident in question, one Randhir had lost his life, whereas Siri Krishan and Sultan had suffered injuries. Out of the sentence of one year imposed upon him, the petitioner has undergone a period of only nine days. Merely because he has been facing the agony of criminal prosecution for the last about fifteen years is no ground to reduce his sentence of imprisonment to the one already undergone by him. However, in case, he is able to deposit an amount of Rs.three lacs so as to be disbursed to the legal heirs of deceased Randhir as compensation, in that eventuality, the sentence of the petitioner can be reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner for the offences under Section 279, 337, 338 and 304-A IPC is maintained. In the event of the petitioner depositing an additional amount of Rs.three lacs as fine with the trial Court within three months from today, his substantive sentences of imprisonment would be deemed to have been reduced to the one already undergone or else, he shall be required to undergo the sentence of imprisonment imposed upon him by the trial Court. In the event of the petitioner depositing the additional amount of fine, i.e. Rs.three lacs within the stipulated period, it shall be disbursed to the legal heirs of deceased Randhir as compensation.

The revision is, accordingly, disposed of.

May 17, 2016
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(T.P.S. MANN)
JUDGE