

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

**Criminal Revision 2088 of 2010
Date of Decision : June 1, 2016**

Sanjay	Versus	Petitioner
State of Haryana		 Respondent

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

Present : Mr. Surender Deswal, Advocate
for the petitioner.

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

Mr. Dhruv Sihag, Advocate for
Mr. N.S. Shekhawat, Advocate
for the complainant.

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

The petitioner was tried for committing offences punishable under Sections 279 and 304-A IPC. Vide judgment and order dated 29.3.2007, learned Sub Divisional Judicial Magistrate, Gohana, convicted him for the aforementioned offences and sentenced him as below:-

- (i) Rigorous imprisonment for three months with fine of Rs.500/- under Section 279 IPC and in default of payment of fine, to further undergone simple

imprisonment for seven days; and

- (ii) Rigorous imprisonment for two years with fine of Rs.1000/- under Section 304-A IPC and in default of payment of fine, to further undergone simple imprisonment for one month.

All the sentences awarded were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same came to be dismissed by learned Additional Sessions Judge, Sonapat, vide judgment dated 12.7.2010. Still not satisfied, the petitioner preferred the present revision, in which, he is currently on bail pursuant to order dated 23.11.2010.

The case of the prosecution has been noticed by the trial Court in para 2 of its judgment, which is reproduced herebelow:-

“In nut shell the case of the prosecution is that on 10.9.2001, when HC Ramesh along with Constable Kitab Singh No. 23 was proceeding to village Shamri and Khanpur, in connection with patrolling, there a ward servant of CHC Gohana met him at Samta Chowk, gohana, where he produced a medical ruqa regarding the death of Ravinder son of Richhpal in a

road side accident, whereupon, HC Ramesh rushed to CHC Gohana, where complainant Ashok son of Mahender met him, who recorded his statement, which in nut shell runs like this.

He stated that he is the resident of village Mundlana and he is a student of 10+2 standard at Chirana School, where deceased Ravinder was also his classmate. It is alleged that after the first period was over, then Ravinder stated to him, since he had an urgent piece of work at his home, therefore, both of them skipped the class. When they were standing on the road, out of their school, in a wait to board the vehicle for Mundlana, then a jeep bearing No. HR-31P-PA-0282 came from the side of Panipat and both of them, boarded the said jeep. It is alleged that at about 10.00 a.m. when the jeep reached 200 steps before that bus stand of village Mundlana, then, in the meanwhile, a three wheeler was seen coming from the opposite side. Since, the jeep driver was driving the jeep at a very fast speed, rashly and negligently, therefore, in order to avoid an accident, with the opposite three wheeler, the jeep driver negotiated a turn of his jeep, rashly and negligently, as a result of

which, Ravinder, who was sitting on the rear seat of the jeep, fell down on the road and sustained multiple injuries on his right ear, nose and below his eyes.

It is further alleged that jeep driver was in a bid to sped away towards Gohana but upon raising his alarm, Jitender son of Richhpal, Mirasi and Ajad sonof Surajbhan, residents of village Mundlala along with some other passengers, who were standing at bus stand, got the jeep stopped and the deceased was removed in the said jeep by him, said Jitender and Ajad and when Ravinder was on his way to CHC Gohana for his treatment, then, on the way, he succumbed to his injuries. However, the jeep driver after getting down the deceased, at fountain chowk Gohana, made good his escape with his said jeep. However, Ravinder was removed in the hospital at CHC Gohana, there, the doctor declared him brought dead. Thus an action was sought against the deceased.

On this information, formal First Information Report was registered against the accused. Investigations were commenced. During the course of investigation, accused was arrested, after sufficient

incriminating material was found to be subsisting against him. After completion of all usual steps of necessary investigation, challan was prepared and put forward to this Court.”

Having heard learned counsel for the parties and on going through the record, this Court finds that Jitender had stepped into the witness box as PW1 and deposed about the manner in which the accident had taken place on account of rash and negligent driving of the jeep by the petitioner. Said Jitender deposed that at the time of the accident, he was present at bus stand of village Mundlana. Despite the lengthy cross-examination, the defence could not bring on record any material, from which, it could be indicated that the testimony of PW1 Jitender is not reliable. As regards Ashok, classmate of the deceased, it is true that he was one, who has lodged FIR at the first instance. However, despite availing number of opportunities, the prosecution could not examine him as its witness and ultimately, evidence of the prosecution was closed by order. Another witness Azad, whom the prosecution examined as PW6, for the reasons best known to him, did not support the prosecution. That by itself is not sufficient to reject the prosecution case in its entirety. The testimony of PW1 Jitender is duly corroborated by PW2 Dr. S.S.Gupta, who had conducted post-mortem on the

dead body of Ravinder. Under these circumstances, no case is made out for any interference in the conviction of the petitioner for the offences under Section 279 and 304-A IPC.

Coming to 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 to be a first offender. As per the custody certificate produced by the learned State counsel, he has undergone an actual sentence of four months and eighteen days besides earning remissions of six days. There is no material on the record which could indicate that after being granted the concession of bail by this Court, he has misused the concession in any manner. At the same time, it may be noticed that the deceased was young boy of 10+2 standard in Chirana School at the time of the accident.

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 sentences of imprisonment. Ends of justice will be suitably met, if his substantive sentence of imprisonment on both the counts is reduced to the one already undergone by him. At the same time, the fine of Rs.1,000/- imposed for the offence under Section 304-A IPC can be suitably

enhanced so as to compensate the legal heirs of deceased Ravinder.

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 shall stand reduced to the one already undergone by him. The fine of Rs.500/- under Section 279 IPC along with its default clause is maintained. However, the fine of Rs.1,000/- under Section 304-A IPC is enhanced to Rs.50,000/- which be deposited by him with the trial Court within three months from today, failing which, he shall be required to undergo rigorous imprisonment for six months. The entire amount of fine, when deposited by the petitioner be disbursed to the legal heirs of deceased-Ravinder, as compensation.

But for the modification in the quantum of sentence of imprisonment and fine, as indicated above, the revision fails and is, therefore, dismissed.

June 1, 2016
amit rana

(T.P.S. MANN)
JUDGE