

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

Crl. Revision 1427 of 2011
Date of Decision : May 24, 2016

Deepak Kumar

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Vishal Yadav, Advocate for
Mr. S.K.Chaudhary, Advocate
for the petitioner.

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 and 304-A IPC. Vide judgment and order dated 2.5.2009, learned Additional Chief Judicial Magistrate, Kurukshetra convicted him under Section 279 IPC and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 300/-. 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/-. In default of payment of fine, he was directed to further undergo simple imprisonment for three months. All the substantive sentences were ordered to run concurrently. The period, if any, spent by him in jail during the trial of the case was ordered to be set off against the substantive sentence of imprisonment imposed upon him. The fine amount was duly deposited by him.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 22.4.2011, learned Additional Sessions Judge, Kurukshetra found no merit in the appeal and, accordingly, dismissed the same. Hence, the present revision in which he is currently on bail pursuant to the order dated 12.9.2011.

The case of the prosecution is that on 6.3.2000 at about 11.00 a.m., complainant Charan Devi alongwith her daughter-in-law Kavita Rani was standing on the gate of family quarters on Pipli-Kurukshetra road for going to Kurukshetra in order to purchase domestic articles. In the meantime, a three wheeler bearing registration No.HR37-9315 came from the Kurukshetra side but on the wrong side of the road. The driver of the three wheeler struck the same against Kavita Rani due to which she fell down and sustained injuries. She was rushed to LNJP Hospital, Kurukshetra where she succumbed to her injuries.

Having heard learned counsel for the parties, this Court finds that the prosecution has led sufficient evidence to establish that it was the petitioner, who had driven the three wheeler in a rash and negligent manner due to which it dashed against Kavita Rani, who was standing on the gate of the family quarters on Pipli-Kurukshetra road. The prosecution case is supported by complainant Charan Devi, who appeared as PW2 and ASI Om Parkash, who stepped into the witness box as PW5. Both of them stated in detail the manner in which the occurrence had taken place. They have also identified the petitioner who was driving the offending three wheeler at the relevant time. It has come in the evidence that the petitioner had disclosed his name and particulars to complainant Charan Devi at the spot itself.

conviction of the petitioner for the offences under Sections 279 and 304-A IPC.

Coming to the question of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last more than sixteen years. He is stated to be a poor person and sole bread winner of his family which also consists of his old parents. He is not a previous convict. As per the custody certificate produced by the learned State counsel, the petitioner has undergone an actual sentence of four months and twenty four days. Besides, he has earned remissions of seventeen days. In all, he has served a period of five months and eleven days out of the sentence of one year imposed upon him.

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 the remaining sentence of imprisonment imposed upon him. Ends of justice would be suitably met, if his substantive sentences of imprisonment on both the counts are reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner 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 sentence of fine alongwith its default clause is maintained.

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