

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

**Criminal Revision 1794 of 2011
Date of Decision : May 18, 2016**

Mohammad Abid		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. Rajesh Lamba, Advocate

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

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

The petitioner was tried for committing offences punishable under Sections 279, 337 and 304-A IPC. Vide judgment and order dated 31.1.2011/1.2.2011, learned Sub-Divisional Judicial Magistrate, Punhana, convicted him under Section 279 IPC and sentenced him to undergo rigorous imprisonment for six months. He was also convicted under Section 337 IPC and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- and in case of default of payment of fine, to further undergo simple imprisonment for a period of seven days. He was further convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for one and half years and to pay a fine of Rs.1,000/- and in default of payment of fine,

to further undergo simple imprisonment for a period of fifteen days. All the sentences of rigorous imprisonment were ordered to run concurrently. The fine imposed upon him was paid by him there and then.

In order to challenge his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 16.7.2011, learned Additional Sessions Judge, Nuh, found no merit in the appeal and, accordingly, dismissed the same. Still not satisfied, he filed the present revision, in which, he is on bail pursuant to order passed on 22.2.2012.

According to the prosecution, on 20.6.2007, complainant Mehmmod along with Deen Mohammad was returning from Punhana to their home after purchasing household articles. At about 9.00 p.m. when they reached near the field of Israil, his sons Arshad and Sajid were going on motor-cycle. In the meantime, a tractor came from the side of village Badhed, which was being driven by the petitioner in a rash and negligent manner. It hit motor-cycle of his sons. As a result, both Arshad and Sajid sustained injuries. Arshad, however, succumbed to his injuries at the spot whereas Sajid was got admitted in the hospital.

After hearing learned counsel for the parties and on going through the judgments passed by the Courts below, this Court is of the view that the prosecution has been successful in proving its case. In this regard, reference can be made to the testimonies of complainant Mehmmod, who appeared as PW1 and injured Sajid, who had appeared

as PW2. Their testimonies are also corroborated by PW3 Irshad and PW4 Nasru, who happened to be present at the place of occurrence and had witnessed the accident. The testimonies of the aforementioned four witnesses stood corroborated by PW7 Dr. Sanjeev Gupta, who had medico-legally examined Sajid and PW9 Dr. Naseem Ahmad, who had subjected the dead body of Arshad to postmortem. Nothing could be brought on record by the defence, from which, it could be indicated that the petitioner had been falsely implicated in the case. Rather all the witnesses of the prosecution stood the test of cross-examination and testified that the accident in question had taken place on account of rash and negligent driving of the petitioner. Under these circumstances, no case is made out for disturbing the conviction of the petitioner for the various offences.

Coming to the quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last about nine years. He is stated to be only bread winner of his family consisting of four children besides aged parents. He is also stated to be a first offender. Further, out of sentence of one and half years imposed upon him, he has already undergone sentence of more than seven months.

Having heard learned counsel for the parties, this Court is of the view that the petitioner need not be sent behind the bars, once again, for undergoing the sentences of imprisonment imposed upon him.

Ends of justice would be best met, if his substantive sentences of imprisonment on all the counts are reduced to the one already undergone by him. At the same time, the fine of Rs.1,000/- imposed upon him for the offence under Section 304-A IPC can be suitably enhanced so as to compensate the legal heirs of deceased Arshad.

Resultantly, the conviction of the petitioner for the offences under Sections 279, 337 and 304-A IPC is maintained. His substantive sentences of imprisonment on all the counts shall stand reduced to the one already undergone by him. The fine of Rs.500/- for the offence under Section 337 IPC along with its default clause is maintained. The fine of Rs.1,000/- imposed upon him for the offence under Section 304-A IPC is, however, enhanced to Rs.30,000/-. The enhanced amount of fine, i.e. Rs.29,000/- be deposited by him with the trial Court within three months from today, failing which, he shall be required to undergo simple imprisonment for four months. The enhanced amount of fine, if deposited, be disbursed to the legal heirs of deceased Arshad, 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.

May 18, 2016
amit rana

(T.P.S. MANN)
JUDGE