

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

CRR No.1855 of 2011 (O&M)

Date of Decision: September 07, 2016

Daya Ram

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.K.Bagri, Advocate
for the petitioner.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Daya Ram against respondent State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 01.12.2009 passed by learned Judicial Magistrate Ist Class, Rewari, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of six months and to pay fine of ₹500/- and in default of payment, to undergo simple imprisonment for a period of one month under Section 279 IPC and further to undergo simple imprisonment for a period of three months under Section 337 IPC and further to undergo simple imprisonment for a period of two years under Section 304-A IPC and also challenging the judgment dated 06.08.2011 passed by learned Addl. Sessions Judge, Rewari, vide which

appeal filed by petitioner was dismissed. All the sentences were ordered to run concurrently.

At the time of preliminary hearing, learned counsel for the petitioner stated that quantum of sentence of the petitioner be considered on payment of compensation to the legal heirs of the deceased.

The revision petition filed by the petitioner was admitted. Learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.37 dated 06.04.2002 under Sections 279, 337, 338 and 304-A IPC registered at Police Station Dharuhera. The brief facts of the case as noted down in the judgment passed by learned JMIC, Rewari, are as under:-

“2. In brief, the facts of the prosecution case are as follows:-

Case of the prosecution is that on 06.04.2002 HC Daya Nand recorded a statement of complainant Raj Kumar son of Ram Singh in which it was alleged that on the same date he along with his father Ram Singh, grandfather Phool Singh, brother Rajinder, sister Sushila was proceeding towards Bhoda Kalan. When they reached near Raju Hotel, they got down from the truck in which they were traveling because the truck driver was drunk. They were waiting for another truck were standing on the road near the puliya of the road. Suddenly one truck with RC No.HR-26A-0517 being driven at a high speed hit his father and Phool Singh then the tanker over turned and this tanker. Due to this impact, motorcycle bearing No.HR-43-2120 and bus No.HR-46-9573 were also hit. Due to over turning of the tanker, one car bearing No.HR-51J-0105, which was behind the said tanker, also collided. One couple riding on motorcycle and another couple traveling in the car also received injuries. The injured were admitted in Raman Munjal Hospital Sidhrawali. Ram Singh and Phool Singh died on the spot. The accident was caused due to the negligence of tanker driver. He escaped from the spot. Complainant prayed for a penal action against him. On this information FIR against the accused persons was lodged. Site plan was prepared. Statement of the witnesses was recorded. Accused were arrested. After completion of all the necessary investigation, challan was prepared and presented in the court.”

Learned JMIC, Rewari, 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, Rewari, vide judgment dated 06.08.2011.

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

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction. Learned counsel for the petitioner argued that petitioner is first offender, only bread earner of the family and he is suffering from the criminal proceedings since 2002.

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

Keeping in view the facts and circumstances of the present case and in view of the fact that the petitioner is first offender, only bread earner of the family and in view of the fact that the petitioner is suffering from long protracted criminal proceedings since 2002 i.e. for the last about 14 years, the sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of 1½ years instead of two years under Section 304-A IPC, subject to the condition that petitioner will deposit ₹1 lac as compensation before the lower Court within one month from today. However, the other sentence, sentence of fine and in default thereof, shall remain the same. All the sentences shall run concurrently.

With the above-said modification in the sentence, the present

revision petition stands dismissed.

It is, however, made clear that if the petitioner fails to deposit ₹1 lac before the lower Court within one month from today, then the modification in the sentence, as stated above, shall also be treated as not granted.

As petitioner Daya Ram 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.

September 07, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No