

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

CRR No.2066 of 2011

Date of Decision: 28 July, 2016

Devender Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Daldeep Singh, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH, J.

This criminal revision had arisen on consecutive conviction of the petitioner Davender Singh firstly by the Court of Judicial Magistrate 1st Class, Rewari, vide judgment dated 11.10.2008 having held the petitioner guilty for commission of offences under Sections 279,337,304-A IPC and sentenced him to undergo maximum rigorous imprisonment for 01 year with fine of Rs.2000/-under Section 304-A IPC and which findings were upheld by the learned Additional Sessions Judge, Rewari through impugned judgment dated 26.8.2011, thereby, dismissing the appeal of the appellant.

Learned counsel for the petitioner has sought to make a prayer that the petitioner has already undergone immense hardship throughout and, thus, some leniency be shown towards him having undergone ignominy since more than 15 years. Learned State counsel has

stoutly opposed the submissions of the learned counsel for the petitioner on the grounds that the petitioner is responsible for causing death by his rash and negligent driving and the seriousness of the offence does not entitle him for any relief.

Upon hearing learned counsel for the parties and perusing the records of the case the facts that are much in abundance reflected in the records and the submissions of the two sides are that on receipt of a VT message the Police of Police Station, City Rewari rushed to the accident site and recorded statement of Rohtash, driver of Jeep bearing No.HR-47-6424, wherein, he stated that on 24.2.2001 he along with others had gone to Mundi Bus Stop to ferry certain articles and around 9.30 p.m when they were little ahead on road from Mundi towards Dahina offending vehicle TATA-407 bearing registration No.HR-46-4386 came from the opposite side being driven by the petitioner in a rash and negligent manner hit their jeep, as a consequence of which, occupants received injuries leading to death of one Anil.

Upon completion of investigations and submissions of challan the prosecution examined PW1 an eye-witness Ram Kumar; PW2 Rohtash complainant one of the injured; PW3 Ram Singh, PW4 injured Satpal, PW5 Phool Singh, who proved the receipt of dead body of deceased Anil, PW6 Shri Krishan, Investigating Officer, who stepped into the witness box to prove the documents prepared during the investigation followed by testimony of PW7 Shyam Kishore, Mechanic, PW8 Braham Parkash, PW9 Rajbir, Photographer who proved photographs Ex.PW9/1 to EX.PW9/12 and PW10 Dr. P.D. Mehra who proved MLRs of the injured as EX.PW10/A, Ex.PW10/B and Ex.PW10/C and postmortem report of the

deceased Ex.PW10/D and closed its evidence. The accused in his stand taken under Section 313 Cr.P.C. denied the allegations taking the plea of innocence but did not lead any evidence in defence leading to his conviction.

In the light of the evidence on records and the testimonies of the witnesses it is a clear cut case of head on collision as the jeep is alleged to be going from the side of Rewari towards Kanina from East side of the site plan towards West and, thus, apparently appears to be on the wrong side of the road and the offending vehicle was coming on the right side of the road, thus, has hit the ill fated jeep leading to this accident. From this all, it is abundantly clear that it is not the sole fault of the driver of the offending vehicle-petitioner before this Court, whereas, driver of the ill-fated Jeep too has contributed to this and which fact is of utmost importance has escaped judicious scrutiny of the evidence which is well corroborated from the photographs placed on the record. Keeping in view the manner and the nature of the accident certainly both the drivers of the offending vehicle as well as ill-fated vehicle cannot escape their liability as it is a matter of common knowledge that a person driving a vehicle on a road ought to be careful of the oncoming vehicle and ensure that he takes utmost precaution in saving from any such collision. How the Courts below have held sole responsibility of the driver of the offending vehicle contrary to the evidence documentary as well as oral are matters which impinge the judicial conscience. Having regard to this together with the factual situation drawn from the evidence oral as well as documentary this accident cannot be a sole attribution which can be assigned to the petitioner and certainly is a mitigating circumstance for lessening the sentence so awarded.

In the light of the same and in view of the fact that arguments could not be controverted on behalf of the State and keeping in view that the petitioner had been facing these accusations and trial since long time of about 15 years and must have grown old and must have suffered by this trial together with the fact that learned State counsel could not bring to the notice of this Court any other history of criminality of the petitioner or his earlier conviction for any offence. Thus, to meet the ends of justice the sentence awarded to the petitioner is reduced from maximum period of 01 year to 06 months as he has already undergone incarceration during his initial days as well. In the light of the same the present petition stands disposed off in those terms remaining sentences remain unaltered.

Records of the trial Court be sent back.

(FATEH DEEP SINGH)
JUDGE

July 27, 2016
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