

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

**Criminal Revision 475 of 2010
Date of Decision: August 4, 2016**

Bajrang		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. N.S.Shekhawat, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

T.P.S.MANN, J.

The petitioner was tried for committing offences punishable under Sections 279 and 304-A IPC. Vide judgment and order dated 22/23.4.2008, the learned Chief Judicial Magistrate, Fatehabad, convicted him under Section 279 IPC and sentenced him to undergo rigorous imprisonment for three months and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of seven days. He was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for three months. Both the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentence, the

petitioner filed an appeal but remained unsuccessful as it came to be dismissed by learned Sessions Judge, Fatehabad vide judgment dated 25.1.2010. Still not satisfied, the petitioner preferred the present revision, which was admitted on 21.4.2010, in which, he is currently on bail.

The case of the prosecution, in nutshell, is that on 23.6.2002, complainant Ashok Kumar appeared before ASI Prithvi Singh and made statement to the effect that on that day at about 10.00 a.m., he was crossing the road near Ambedkar Chowk alongwith his daughter Jyoti after getting her cycle repaired. One Jitender Gupta was accompanying him on his scooter. When the complainant had crossed the road and looked back, he saw a dumper truck driven by its driver at a very fast speed and in a rash and negligent manner. It struck against the cycle of his daughter and she was run over under the wheel of the truck and died there. Due to the presence of the crowd the driver could not flee and stopped the dumper there. He was overpowered and disclosed his name and address. The dumper bore registration No. HR-39A-0727. While the complainant was taking care of his daughter, the driver of the dumper fled away from the spot.

Having heard learned counsel for the parties and on

going through the impugned judgments passed by the Courts below besides the record, this Court finds that complainant-Ashok Kumar had testified about the petitioner driving the dumper at a fast speed and in a rash and negligent manner. The dumper struck against the cycle of his daughter, who was run over under the wheel of the truck and died at the spot. His testimony is duly corroborated by PW2 Dr. M.L.Sharma, Medical Officer, Civil Hospital, Jhajjar, who had conducted post-mortem on the dead body of deceased Jyoti. During the investigation of the case, the police collected sufficient material to connect the petitioner with the crime committed by him. Under these circumstances, no case is made out for any interference in the conviction of the petitioner for the offences under Sections 279 and 304-A IPC.

Coming to the question of sentence, this Court finds that the petitioner is facing the agony of criminal prosecution for the last more than fourteen years. When he was heard by the trial Court on the quantum of sentence, he had pleaded that he was sole bread winner of his family. Besides, he was a first offender. As per the custody certificate dated 16.12.2015 already brought on record by the learned State counsel, the petitioner has undergone an actual sentence of three months. It has also been mentioned therein that the petitioner is not involved or convicted

in any other case. He is on bail pursuant to the order passed by this Court on 21.4.2010. There is no material on the record that during the pendency of the revision, he has misused the concession of bail.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose is likely to be served by sending the petitioner behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine imposed upon him for the offence under Section 304-A IPC can be enhanced so that the same may be disbursed to complainant-Ashok Kumar, father of deceased Jyoti, as compensation.

Resultantly, the conviction of the petitioner under Sections 279 and 304-A IPC is maintained. His substantive sentences of imprisonment on both the counts are reduced to the one already undergone by him. The fine of Rs.500/- under Section 279 IPC alongwith its default clause is maintained. However, the fine of Rs.1,000/- imposed for the offence under Section 304-A IPC is enhanced by Rs.50,000/-. The enhanced amount of fine be deposited by him with the trial Court within

four months from today, failing which, he shall be required to undergo rigorous imprisonment for four months. In the event of the petitioner depositing the enhanced amount of fine, i.e. Rs.50,000/-, it be disbursed to complainant-Ashok Kumar, father of deceased-Jyoti, as compensation.

The revision is, accordingly, disposed of.

August 4, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No