

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

**Criminal Revision 2330 of 2011
Date of Decision : May 16, 2016**

Ramesh Kumar @ Kaka	Versus	Petitioner
State of Haryana		 Respondent

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

Present : Mr. Gaurav Pathania, Advocate for
Mr. Ravinder Malik Ravi, Advocate
for the petitioner.

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

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

The petitioner was tried for committing offences punishable under Sections 279 and 304-A IPC on the allegations that on 28.9.2000 at about 7.00 p.m. he drove tractor bearing registration No. JKR-2360 on a public road in a rash and negligent manner so as to endanger human life and personal safety of others and while doing so, caused accident resulting into Amit receiving injuries who later on succumbed to the same. Vide judgment and order dated 18/19.8.2009, learned Chief Judicial Magistrate, Yamuna Nagar at Jagadhri convicted him for the offence under Section 279 IPC and sentenced him to undergo

simple imprisonment for six months and to pay a fine of Rs.500/-. He was also convicted under Section 304-A IPC and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1,000/-. In case of default of payment of fine, he was directed to further undergo simple imprisonment for a period of one month. The sentences awarded to him were ordered to run concurrently. The period of his detention during investigation/trial, if any, was ordered to be set off against the sentence of imprisonment awarded to him. The amount of fine imposed was duly paid by the petitioner there and then.

In order to challenge his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 14.7.2011, learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, while finding no merit in the appeal, dismissed the same. Hence the present revision, in which, he is on bail.

The case of the prosecution has been narrated by the learned trial Court in para 2 of its judgment, which is reproduced hereinbelow:-

“Facts in brief are that an accident had taken place on 28.9.2000 at about 7.00 p.m. near Hanuman Mandir at ITI Chowk, Yamuna Nagar, when a tractor bearing registration NO. JKR-2360 being driven in a rash and

negligent manner by accused, facing trial before the Court, struck against Amit, resulting in injuries to him. A report was lodged with the police by eye witness namely, Sehdev son of Shri Dev Parshad resident of Tagore Garden, Yamuna Nagar. He along with Vishal removed the injured to a hospital, where he succumbed to the injuries sustained in the accident. Proceedings under Section 174 Cr.P.C. were conducted. Matter was investigated by ASI Ishwar Dass. During investigation, sketch of site was prepared. Offending tractor along with R.C. was taken into police possession vide separate seizure memo and got mechanically examined. Statement of witnesses were recorded under Section 161 Cr.P.C. Accused was arrested and after completion of investigation proceedings, he was challaned in due course to face trial before this Court”.

Having heard 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 the guilt of the petitioner. In this regard, reference can be made to the testimony of PW1 Sehdev and PW4 Vishal. Both of

them had identified the petitioner to be the one, who was driving the tractor in question in a rash and negligent manner, as a result of which, the accident had taken place. The testimonies of these witnesses have been duly corroborated by PW2 Dr. Ajesh Goel. Even the investigation carried out by PW6 Sub Inspector Ishwar Dass also ended with holding the petitioner responsible for committing the accident in question. 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 quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last last about sixteen years. He is stated to be a poor person and sole bread winner of his family consisting of four children and aged parents. He is not shown to be a previous convict. It is also stated that out of the sentence of one year imposed upon him, he has already undergone a period of about five and half months. Prayer has, accordingly, been made for taking a lenient view in the matter of sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that because of the rash and negligent driving of the petitioner, the accident in question had taken place, which resulted into death of Amit and, therefore, the sentence of

imprisonment awarded to him does not call for reduction.

Custody certificate dated 18.1.2016 has already been brought on record by the learned State counsel, it is recorded therein that the petitioner has already undergone an actual sentence of five months and eight days.

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 remaining sentence of imprisonment imposed upon him. Ends of justice would be suitably met, if his substantive sentences of imprisonment on both the counts is reduced to the one already undergone by him. At the same time, fine of Rs.1,000/- imposed upon him for the offence under Section 304-A IPC can be enhanced so that the same on its recovery may be disbursed to the legal heirs of deceased Amit, 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 shall stand reduced to the one already undergone by him. The fine of Rs.500/- for the offence under Section 279 IPC along with its default clause is maintained. However, the fine of Rs.1,000/- imposed upon the petitioner for the offence under Section 304-A

IPC is enhanced to Rs.20,000/-. The enhanced amount of fine, i.e. Rs.19,000/- 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 Amit, 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 16, 2016
amit rana

(T.P.S. MANN)
JUDGE