

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

Crl. Revision 3062 of 2011
Date of Decision : April 29, 2016

Sehjad

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Karan Pathak, Advocate

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

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

The petitioner was tried for committing the offences punishable under Sections 279, 337 and 304-A IPC on the allegations that on 20.2.2002 at about 7.30 a.m., he had driven dumper bearing registration No.HR-38-BG-5906 at a very high speed and in a rash and negligent manner and hit the cycle of Karan Singh, who sustained numerous injuries. Said Karan Singh was taken to a hospital at Gurgaon where he succumbed to the injuries.

Vide judgment and order dated 14/18.11.2009, learned Judicial Magistrate 1st Class, Nuh held the petitioner guilty under Section 279 IPC and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo

rigorous imprisonment for one month. He was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.3000/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. The substantive sentences of imprisonment were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal which was, however, dismissed by learned Additional Sessions Judge, Fast Track Court, Nuh vide judgment dated 23.11.2011. Still not satisfied, he filed the present revision, which was admitted on 30.4.2012 and he was granted the concession of bail.

After hearing learned counsel for the parties and on going through the record as well as the impugned judgments of conviction passed by the Courts below, this Court is of the considered view that the conviction of the petitioner for the offences under Sections 279 and 304-A IPC is well merited. The occurrence in question was witnessed by complainant Jai Singh and Baljit Singh, father of deceased Karan Singh. Both of them stepped into the witness box as PW4 and PW1, respectively and stated in detail about the manner in which the occurrence in question had taken place. No material has been brought on record from which it could be inferred that those two witnesses were not present at the time of the occurrence. Even during the

investigation of the case, the police had collected sufficient material on the basis of which final report under Section 173 Cr.P.C. was submitted against the petitioner. Under these circumstances, this Court has no other option but to uphold the conviction of the petitioner for the offences under Sections 279 and 304-A IPC.

As regards the quantum of sentence, it may be worthwhile to notice that the petitioner is facing the agony of criminal prosecution for the last more than fourteen years. It is the case of the petitioner that he is the sole bread winner of his family which consists of his four children, besides old parents and grand-mother. It is further his case that he is not involved in any other case of causing of accident. Further, he has undergone an actual sentence of 5½ months, out of the sentence of two years imposed upon him.

Taking into consideration the totality of the circumstances, this Court is of the considered view that the petitioner, who is on bail pursuant to the order dated 30.4.2012, need not be sent behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice would be amply met if the substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine of Rs.3,000/- imposed upon the petitioner for the offence under Section 304-A IPC can be suitably enhanced so as to disburse it

to PW1 Baljit Singh, father of the deceased as compensation.

Resultantly, the conviction of the petitioner for the offences under Sections 279 and 304-A IPC is maintained. His substantive sentence of imprisonment on both the counts shall stand reduced to the one already undergone by him. Fine of Rs.1,000/- imposed under Section 279 IPC alongwith its default clause is maintained. At the same time, the fine of Rs.3,000/- imposed upon the petitioner for the offence under Section 304-A IPC is enhanced to Rs.50,000/- and in default of the same, he shall undergo rigorous imprisonment for six months. As he has already paid the fine imposed upon him by the trial Court, he shall deposit the enhanced amount of fine with the trial Court within a period of three months from today. The enhanced amount of fine, if deposited, be paid to PW1 Baljit Singh, father of the deceased, as compensation.

The revision is, accordingly, disposed of.

April 29, 2016
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(T.P.S. MANN)
JUDGE