

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

**Criminal Revision 3144 of 2011**

**Date of Decision : May 4, 2016**

|                  |        |                  |
|------------------|--------|------------------|
| Jaibir           |        | .....Petitioner  |
|                  | Versus |                  |
| State of Haryana |        | ..... Respondent |

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

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Present : Mr. Azad Singh, Advocate as  
amicus curiae for the petitioner.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

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

The petitioner was tried for committing offences punishable under Sections 279, 337 and 338 IPC. Vide judgment and order dated 21/22.10.2009, learned Sub Divisional Judicial Magistrate, Loharu, convicted him for the aforementioned offences and sentenced him as below:-

- (i) Rigorous imprisonment for a period of six months  
and to pay a fine of Rs.500/- under Section 279 IPC  
and in default of payment of fine, to further undergo  
simple imprisonment for a period of two months;
- (ii) Rigorous imprisonment for a period of six months  
and to pay a fine of Rs.500/- under Section

337 IPC and in default of payment of fine, to further undergo simple imprisonment for a period of two months; and

(iii) Rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- under Section 338 IPC and in default of payment of fine, to further undergo simple imprisonment for a period of two months.

All the sentences of imprisonment were ordered to run concurrently.

An amount of Rs.60,000/- by way of compensation was also granted in favour of injured Naveen, to be collected by his father complainant Ramesh after completion of period of appeal, etc. The fine imposed upon the petitioner was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner filed an appeal. Vide judgment dated 29.11.2011, learned Additional Sessions Judge, Bhiwani, upheld his conviction and sentence and dismissed the appeal. Still not satisfied, the petitioner preferred the present revision, which came to be admitted on 16.2.2012 and he was ordered to be released on bail subject to his furnishing bonds to the satisfaction of the Chief Judicial Magistrate, Bhiwani.

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

“ Brief facts of the present case are that on 6.10.2007, on receipt of a VT from Police Station Civil Lines, Hisar, regarding admission of injured Naveen in Sarvodya Hospital, ASI Ashok Kumar reached there. The injured was declared unfit to make the statement. His father Ramesh Kumar was present there and he got his statement Ex.PW2/A recorded stating that his son Naveen Kumar aged 8 years is a student of BRCM School, Behal and he used to go to school by a private bus. On 6.2.2007, he along with his son Naveen Kumar and niece Priyanka was present at eastern side of culvert and was waiting for the school bus, at about 7.30 a.m. from the side of village Chehar Kalan a Marshal Jeep bearing registration No. HR34-A-1501 was seen coming at a high speed and in rash and negligent manner. The driver of the said jeep by driving at a high speed and in rash and negligent manner hit Naveen Kumar, as a result of which, he was thrown at some distance and suffered injuries on his head and legs. Naveen became unconscious. Dharam Chand also witnessed the occurrence. Later on they came to know that Jaibir son of Puran was driving the offending vehicle who ran away from the spot. Naveen was taken to hospital. Action be taken against the jeep driver. On this statement, FIR was lodged. Investigation was set

into motion. Site plan of the place of the place of occurrence was prepared. After completing all usual acts of investigation and interrogation challan was prepared and submitted before the Court ”.

At the trial of the case, the prosecution examined Dharam Chand as PW1, Ramesh as PW2, SI Ashok Kumar as PW3, Constable Udeybhyan as PW4, Dr. Anil Bansal as PW5 and Kamal Singh, Mechanic as PW6.

The plea of the petitioner was that he was innocent and falsely implicated in the case. However, he did not lead any evidence in defence.

The trial Court, while relying upon the prosecution evidence convicted and sentenced the petitioner, as mentioned above. In the appeal preferred by him, he remained unsuccessful.

After hearing learned counsel for the parties and on going through the testimonies of PW1 Dharam Chand and PW2 Ramesh, this Court is of the considered view that the accident had taken place on account of rash and negligent driving of Marshal Jeep bearing registration No. HR34-A-1501 by the petitioner. As a result of the accident, Naveen Kumar son of PW2 Ramesh was thrown at some distance and sustained injuries on his head and legs. The ocular account is duly corroborated by PW5 Dr. Anil Bansal, who had medico-legally examined the injured. Mechanical report Ex.PW6/A in respect of the offending

vehicle stands proved from the testimony of PW6 Kamal Singh, Mechanic. Under these circumstances, no case is made out for any interference in the conviction of the petitioner for the various offences.

As regards the quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last more than eight years. He claims himself to be a first offender and only bread winner of his family consisting of small children. As per the custody certificate produced by the learned State counsel, he has already undergone an actual sentence of two months and twenty five days out of the sentence of one year imposed upon him.

Taking into consideration the totality of the circumstances, this Court is of the considered 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 sentence of imprisonment is reduced to the one already undergone by him. At the same time, fine of Rs.500/- imposed upon him on each of the three counts can be suitably enhanced so as to adequately compensate PW2 Ramesh, father of injured Naveen Kumar.

Resultantly, the conviction of the petitioner for the

offences under Sections 279, 337 and 338 IPC is maintained. His substantive sentences of imprisonment on all the counts shall stand reduced to the one already undergone by him. The sentence of fine of Rs.500/- imposed upon him on each of the counts is enhanced to Rs.5,000/- and in default of payment of fine on all the three counts, he shall undergo simple imprisonment for four months. The enhanced amount of fine be deposited by the petitioner with the trial Court within three months from today. The enhanced amount of fine, i.e. Rs.13,500/- in all, if deposited by him with the trial Court, be disbursed to complainant Ramesh, as compensation. The aforementioned enhanced amount of fine/compensation is in addition to the amount of Rs.60,000/-, which has already been ordered to be paid by him by way of compensation to injured Naveen Kumar to be collected by his father complainant Ramesh.

But for the modification in the quantum of sentence of imprisonment and fine as indicated above, the revision fails and is, therefore, dismissed.

**May 4, 2016**  
amit rana

**( T.P.S. MANN )**  
**JUDGE**