

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

Crl. Revision 3938 of 2012
Date of Decision : April 29, 2016

Shyam Sunder

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Rahul Rathore, 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 and 304-A IPC on the allegations that on 14.4.2007 at about 3.00 p.m., he, while driving the Canter in a rash and negligent manner, hit the motor cycle coming from the side of Mohna from behind, due to which the motor cycle got stuck in the rear tyre of the Canter. The motor cycle in question was being driven by Hukam Chand, who also received injuries as a result of the accident. Initially, the FIR was registered under Sections 279 and 337 IPC. However, Hukam Chand died in the hospital on 20.4.2007 and, accordingly, offence under Section 304-A IPC was incorporated.

Vide judgment and order dated 16.7.2012, learned

Judicial Magistrate 1st Class, Faridabad convicted the petitioner for the offence under Section 279 IPC and sentenced him to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs. 500/-. He was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/-. In default of payment of fine, he was required to undergo simple imprisonment for a period of seven days. Both the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner filed an appeal. Vide judgment dated 3.12.2012, learned Additional Sessions Judge, Faridabad upheld his conviction for the offences under Sections 279 and 304-A IPC. His sentence of imprisonment for three months under Section 279 IPC was reduced to rigorous imprisonment for one month. Similarly, his sentence of imprisonment for one year under Section 304-A IPC was reduced to rigorous imprisonment for six months. However, the fine of Rs. 500/- on each of the two counts alongwith the default clause was maintained. Both the substantive sentences of imprisonment were ordered to run concurrently.

Still not satisfied, the petitioner filed the present revision in which he is on bail.

Learned counsel for the petitioner has not challenged

the conviction of the petitioner for the offences under Sections 279 and 304-A IPC. However, he has submitted that the petitioner is facing the agony of criminal prosecution for the last more than nine years. He is a first offender and only bread winner of his family. Out of the sentence of six months imposed upon him, he has already undergone a period of about four months. It is also submitted that there is no allegation against him for misusing the concession of bail. Prayer has, accordingly, been made for reducing his sentence of imprisonment to the one already undergone by him.

Learned State counsel has opposed the prayer by submitting that on account of rash and negligent driving of the petitioner, Hukam Chand had received injuries and later on succumbed to the same. Learned State counsel has, however, produced the custody certificate, as per which the petitioner has undergone an actual sentence of three months and twenty nine days. Besides, he has earned remissions of six days. In all, he has completed a sentence of four months and five days out of the sentence of six months imposed upon him. He is also not shown to be involved or convicted in any other case.

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 for undergoing the remaining sentence of imprisonment imposed

upon him. Ends of justice would be suitably met, if his sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner under Sections 279 and 304-A IPC are maintained. The 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 is maintained. However, the fine of Rs. 500/- imposed upon him for the offence under Section 304-A IPC is enhanced to Rs. 10,000/-. In default of payment of fine, he shall undergo simple imprisonment for one month.

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

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