

IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.

Crl. Revision No.1305 of 2015 (O&M)
Date of decision: April 25, 2016

Hameed @ Abdul Hameed ...Petitioner

Versus

State of Haryana ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Deepak Sharma, Advocate for
Mr. Pankaj Bali, Advocate for the petitioner.
Ms. Tanushree Gupta, Deputy Advocate General, Haryana.

Rajan Gupta, J. (oral)

Petitioner Hameed alias Abdul Hameed had been convicted by the Judicial Magistrate 1st Class, Karnal, under sections 279, 338 and 304-A IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
279 IPC	To undergo imprisonment for a period of six months.
338 IPC	To undergo imprisonment for a period of two years and to pay a fine of Rs.500/-.
304-A IPC	To undergo imprisonment for a period of two years and to pay a fine of Rs.500/-.

The petitioner preferred appeal against the judgment of his conviction/sentence, which was dismissed by Additional Sessions Judge, Karnal, vide judgment dated 29.01.2015.

Feeling aggrieved against the judgments of both the courts

below, the petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

Complainant Kulwant Singh made a complaint to the police to the effect that on 4.10.2004, he was waiting for a bus at Indri Road, Balri Bypass. His son Surjit Singh and peon Prithvi Singh had gone Karnal in order to deposit form of +2 standard. At about 6.00 P.M., when he was returning on his motorcycle No.HR-05L-0344. When his son tried to turn motorcycle towards Indri Road from Karnal, the offending Tanker No.UP-13C-0758 being driven by its driver (petitioner herein) came in a rash and negligent manner and hit motorcycle of his son from rear side. Surjit and Prithvi both fell down and they were dragged to some distance. Thereafter, said Tanker also hit a tractor-trolley No.HNW-5912 from rear side, as a result of which Sohan Lal and Rajbir fell down and suffered injuries. In turn, tractor also hit a

motorcycle and a Gypsy of police officials. Police officials also suffered injuries. Prithvi died at the spot and Surjit was declared 'brought dead' in the hospital. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under Sections 279, 338 & 304-A IPC, charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as seventeen witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, the learned trial court held the petitioner guilty of the charge under sections 279, 338 and 304-A IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Karnal on 29.01.2015.

On a perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the

appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is a poor person and main bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record affidavit of Ashok Kumar, Dy. Superintendent, District Prison, Karnal, according to which the petitioner has undergone custody of 01 year 09 months and 20 days including remission earned.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to the period already undergone by him. However, the fine imposed by the trial court shall remain intact.

Except with the modification in the quantum of sentence, as indicated hereinabove, the appeal stands dismissed.

(RAJAN GUPTA)
JUDGE

April 25, 2016
'Rajpal'