

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.409 of 2013 (O&M)

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Date of decision:29.4.2016

Ramesh Kumar

...Petitioner

v.

State of Haryana

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. Vikramjit Singh, Additional Advocate General, Haryana
for the respondent-State.

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Inderjit Singh, J.

Ramesh Kumar-petitioner has filed this criminal revision petition against the State of Haryana under Section 401 Cr.P.C. challenging the impugned judgment dated 3.12.2012 passed by learned Sessions Judge, Sirsa, vide which the appeal filed by the petitioner against the impugned judgment of conviction and order of sentence dated 1.11.2011/2.11.2011 passed by learned Sub Divisional Judicial Magistrate, Ellenabad, convicting the petitioner for the offences under Sections 279 and 304-A IPC and sentencing him to undergo rigorous imprisonment for two months and to pay fine of ₹200/- and in default of payment of fine to further undergo simple imprisonment for one week for the offence under Section 279 IPC

and also to undergo rigorous imprisonment for one year and to pay a fine of ₹1,000/- and in default of payment of fine to further undergo simple imprisonment for one month, has been dismissed. The substantive sentences were ordered to run concurrently.

At the time of admission of this revision petition vide order dated 16.5.2013 by the Co-ordinate Bench, it was observed that there is scope of interference for the quantum of sentence. It has been observed that interests of justice would be adequately met in case the heirs of the deceased are compensated to some extent being victims of the occurrence. Vide the same order, the petitioner was released on bail subject to deposit of sum of ₹40,000/- in the shape of bank draft in the name of wife of the deceased in addition to the compensation already awarded. It has been brought to my notice that this order has been complied with.

I have heard learned counsel for the petitioner and the learned State counsel and have gone through the record.

The brief facts of the case as mentioned in the judgment of the learned Sub Divisional Judicial Magistrate, Ellenabad, are as under:-

“Above mentioned FIR has been registered on the statement Ex.PW.2/A got recorded to the police by complainant Mahender Kumar son of Budh Ram, caste Aggarwal, resident of Jodhpuria inter-alia stating therein that he is running a grocery shop in his village and his real uncle Mahavir Parsad was doing the business of cotton. On 11.12.2004, his uncle Mahavir Parsad on his motorcycle No.HR-24-D/7741 and

complainant alongwith Manoj Kumar son of Biswa Rai on a scooter No.HR-25-A/1692 had gone to Village Darewala on account of some personal work. At about 4.30 p.m., when they reached near the fields of Vinod Kumar son of Krishan Lal, resident of Jodhpuria, one tractor make Escort-340 being driven by Ramesh son of Mohan Lal, who is already known to the complainant, came there from the side of Village Jodhpuria. The tractor was being driven in rash and negligent manner. Mahavir Parsad was ahead of the complainant on his motorcycle and when he tried to cross the said tractor, accused Ramesh hit his tractor in the side of motorcycle of Mahavir Parsad, due to which Mahavir Parsad fell down alongwith his motorcycle and suffered injuries on his head and right ear and fell unconscious. After causing accident, accused Ramesh fled away from there along with his tractor. Complainant shifted his uncle Mahavir Parsad to G.H., Sirsa from where he was shifted to PGI, Rohtak for treatment. On 12.12.2004, said Mahavir Parsad succumbed to his injuries received in the accident in question. He requested for taking legal action against the accused.

2. During investigation, police visited the place of occurrence, prepared site plan of the place of occurrence, recorded the statements of the witnesses; took the vehicle involved in this case into their possession and after completion of usual

formalities of investigation, challan was filed against the accused to face trial for the commission of offences as indicated above.”

At the time of arguments, learned counsel for the revision petitioner has not pointed out any material for interference by this Court in the findings of conviction recorded by both the Courts below. Both the Courts below have given concurrent findings regarding the conviction of the petitioner. A perusal of the judgments passed by the Courts below also shows that no illegality has been committed by the Courts below nor, in any way, the judgments passed by the Courts below can be held as perverse. Nothing has been pointed out as to which material evidence has been misread by the Court or which material has not been considered by the Court. This is a revision petition and this Court is not to re-appreciate the evidence like a Court of an appeal as nothing has been shown as to how the findings are perverse or against the evidence nor it has been pointed out that any material evidence has been misread by the Courts below etc. Therefore, the conviction of the revision petitioner is upheld.

Learned counsel for the revision petitioner mainly argued for reduction of sentence.

Keeping in view the fact that already at the time of admission of the revision petition, this Court has stated that there is scope for reduction of sentence and ₹40,000/- has already been got deposited as argued by revision petitioner in the name of the wife of the victim, therefore, keeping in view the above facts the sentence of the present

revision petitioner is liable to be reduced. Moreover, it is argued that the petitioner is a poor person, only bread earner of the family and has already undergone seven months 12 days out of the actual sentence of imprisonment, therefore, the sentence of imprisonment of the present revision petitioner is reduced to already undergone and further ₹40,000/- was awarded as compensation to the victim, which has already been deposited in compliance with the earlier order dated 16.5.2013.

Therefore, in view of the above discussion, the criminal revision petition is partly allowed.

April 29, 2016.

(Inderjit Singh)
Judge

hsp