

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

Crl. Revision 536 of 2013
Date of Decision : May 20, 2016

Rajbir Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. S.P.Chahar, Advocate

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

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

The petitioner was tried for committing the offences under Sections 279 and 304-A IPC. Vide judgment and order dated 1/3.3.2011, learned Judicial Magistrate 1st Class, Kurukshetra convicted him for the offence under Section 279 IPC and sentenced him to undergo rigorous imprisonment for a period of four 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.1,000/-. In default of payment of fine, he was further sentenced to undergo simple imprisonment for a period of one month. Both the substantive sentences were ordered to run concurrently. The fine imposed was paid by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same came to be dismissed by learned Sessions Judge, Kurukshetra vide judgment dated 21.1.2013. Still not satisfied, he has filed the present revision in which he is

currently on bail pursuant to the order dated 9.9.2013.

The prosecution case, in brief, is that on 22.7.2004, complainant Ramesh Kumar alongwith Ram Rattan, residents of village Barwa went to have water from the tap situated near the bridge of Bhakra Canal, Dhand Road, Mirjapur and at that time Balbir son of Lal Singh and Krishan son of Abhey Ram, residents of his village came on a motor cycle bearing registration No. HR-07D-4226. Balbir was driving the motor cycle while Krishan Lal was the pillion rider. In the meantime, truck bearing registration No. HR-46B-1036 came which was being driven by the petitioner at a high speed and in a rash and negligent manner. When it reached the Bhakra Drain Bridge, it struck against the backside of the motor cycle driven by Balbir. As a result, both Balbir and Krishan fell down on the bridge and the truck went over them. They were dragged upto a short distance. On account of the injuries, both Balbir and Krishan died at the spot.

Having heard learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that the prosecution has led sufficient evidence to prove that at the relevant time the offending truck was being driven by the petitioner in a rash and negligent manner as a result of which it hit the motor cycle driven by Balbir with Krishan on its pillion seat. As a result, both Balbir and Krishan received injuries and died at the spot. In this regard, reference may be made to the testimonies of PW2 complaint-Ramesh and PW3 Ram Rattan. The medical evidence brought on record by the prosecution by examining PW1 Dr.G.D.Mittal, who had conducted post-mortem on the dead bodies of Balbir and Krishan, corroborates the prosecution case. During the investigation of the case, the police had collected sufficient evidence which

showed that it was the petitioner, who was responsible for causing the accident. Under these circumstances, no case is made out for any interference in the conviction of the petitioner for the offences under Sections 279 and 304-A IPC.

As regards the quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last about twelve years. When he was heard by the trial Court on the quantum of sentence, he had pleaded that he was required to look after his family consisting of wife, three children and aged mother. It was also submitted that he was not a previous convict.

As per the custody certificate produced by the learned State counsel, the petitioner has already undergone an actual sentence of seven months and twenty two days. Besides, he has earned remissions of one month and eighteen days. In all, he has completed a period of nine months and ten days out of the sentence of one year imposed upon him. It is also mentioned therein that the petitioner is neither involved nor convicted in any other case.

After hearing learned counsel for the parties, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing the 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.

Resultantly, the conviction of the petitioner under Sections 279 and 304-A IPC is maintained. His substantive sentences of imprisonment on both the counts shall stand reduced to the one already undergone by him.

The fine of Rs. 500/- imposed upon him under Section 279 IPC is maintained. However, the fine of Rs. 1,000/- imposed under Section 304-A IPC is enhanced to Rs. 15,000/-. The enhanced amount of fine, i.e. Rs.14,000/- be deposited by the petitioner within three months from today, failing which he shall be required to undergo simple imprisonment for three months.

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

May 20, 2016
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(T.P.S. MANN)
JUDGE