

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

Criminal Revision 1859 of 2014

Date of Decision : May 11, 2016

Shish Ram		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. R.S.Sihota, Senior Advocate with
Mr. B.R.Rana, Advocate
for the petitioner.

Mr. Dhruv Dayal, Deputy Advocate General, Haryana.

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

The petitioner was tried for committing offences punishable under Sections 279 and 304-A IPC on the allegations that on 30.4.2007, he drove bus bearing registration No. RJ-18P-0606 in a rash and negligent manner and at a very high speed despite the fact that he was asked not to do so. As a result, the bus went into ditches. Jaswant, who was sitting near the door of the said bus fell out of the bus due to sudden push and, thereafter, he was run over by the bus. He received injuries due to the accident and succumbed to the same at the spot. Vide judgment and order dated 27.8.2012, learned Chief Judicial

Magistrate, Narnaul, convicted him for the aforementioned offences and sentenced him as mentioned below:-

- (i) Simple imprisonment for a period of three months and to pay a fine of Rs.250/- under Section 279 IPC ; and
- (ii) Rigorous imprisonment for a period of six months and to pay a fine of Rs.250/- under Section 304-A IPC.

In default of payment of fine, he was ordered to further undergo simple imprisonment for a period of one month.

Both the sentences of imprisonment were ordered to run concurrently. The fine imposed upon the petitioner was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same was dismissed by learned Sessions Judge, Narnaul, vide judgment dated 7.6.2014. Hence, the present revision, in which, he is on bail.

Having heard learned counsel for the parties and on going through the record, this Court finds that the prosecution has been able to prove that the accident in question took place on account of rash and negligent driving of the bus by the petitioner.

The bus was being driven by him at a high speed. He was asked by the complainant and others to slow down the bus but he did not listen to them. On account of the petitioner driving the bus in a rash and negligent manner, the bus fell into the ditches. At that time Jaswant, who was sitting near the bus door fell out of the same. While he was lying fallen, the bus ran over him and the injuries received by him in the process resulted in his death. The ocular account of the accident has been duly proved by the prosecution by examining PW2 Girraj and PW5 Pappu. The medical evidence by way of testimony of PW4 Dr. Rakesh Sharma fully corroborates the ocular account. Under these circumstances, no case is made out for any interference in the impugned judgments of conviction passed by the Courts below. The conviction of the petitioner under Sections 279 and 304-A IPC is upheld.

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 nine years. He is stated to be the sole bread winner of his family consisting of three daughters and one son. He is not a previous offender. It is also submitted that out of the sentence of six months imposed upon him, he has already undergone total period of about three months. There is no

allegation that ever since his release on bail, he has misused the concession in any manner. Prayer has, accordingly, been made for setting aside his remaining sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the accident in question had taken place on account of rash and negligent driving of the bus by the petitioner. The sentence of imprisonment imposed upon him is commensurate with the crime committed. Learned State counsel has, however, produced the custody certificate, as per which, the petitioner has undergone total sentence of two months and twenty two days.

Taking into consideration the totality of the circumstances, this Court is of the 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 sentences of imprisonment on both the counts are reduced to the one already undergone by him.

Resultantly, the conviction of the petitioner for the offences 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

sentences of fine already imposed along with their default clauses are maintained. However, the petitioner shall pay an additional fine of Rs.15,000/- to be deposited with the trial Court within three months from today and in default of the same, he shall undergo simple imprisonment for three months. The additional amount of fine, if deposited by him, be disbursed to the legal heirs of deceased Jaswant, as compensation.

The revision is, accordingly, disposed of.

May 11, 2016
amit rana

(T.P.S. MANN)
JUDGE