

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 2275 of 2015

Date of decision : April 12, 2016

Mahadev

....Petitioner

versus

State of U.T. Chandigarh

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. LM Gulati, Advocate, for the petitioner
Ms. Ashima Mor, APP, UT, Chandigarh for the respondent

Fateh Deep Singh, J. (Oral)

The revisionist Mahadev who was an accused in case bearing FIR No. 234 dated 19.11.2010 under sections 279, 337, 304-A IPC read with section 181 of Motor Vehicles Act pertaining to Police Station Sector-26, Chandigarh was found guilty for the offences under sections 279, 304-A IPC as well as section 181 of the Motor Vehicle Act by the court of learned Additional Chief Judicial Magistrate, Chandigarh through judgment dated 2.8.2014 and was sentenced to undergo rigorous imprisonment for one year and six months. The appellant challenged his conviction in appeal before

the learned Additional Sessions Judge, Chandigarh vide judgment dated 3.6.2015 his appeal stood dismissed upholding judgment of conviction. It is against these concurrent findings of the courts below, the revisionist has come up in this revision before this Court.

Heard Mr. LM Gulati, Advocate, for the petitioner and Ms. Ashima Mor, APP, UT, Chandigarh for the respondent and perused the record.

Mr. L.M.Gulati, learned counsel for the petitioner-revisionist at the very onset of his submissions has taken the stand that his lone prayer is for reduction of sentence of imprisonment and has not assailed the findings of conviction. It is submitted that as per the prosecution story, on 18.11.2010 on the statement of Constable Pawan Kumar who stated that while on beat duty around 10.00 AM near the turning of St. Kabir High School, Chandigarh he came across a Honda City Car bearing registration No. CH03W-3490 being driven rashly and negligently by Mahadev convict who hit a scooter going on the road on left side resulting injuries and death of the scooterist who was subsequently identified as Sohan Lal, a male aged around 60 years.

The prosecution at the trial has examined in all ten witnesses comprising of PW1 Dr. Bhushan, PW2 Complainant Constable Pawan Kumar, PW3 SI Parmal Singh, PW4 HC Gurdeep Singh who mechanically

tested the vehicle and the dead body has been identified by PW5 Bhupinder Singh his nephew, PW6 Jatinder Sekhon Data Entry Operator proved the ownership of the vehicle and PW7 ASI Mohan Singh, who partly investigated the matter followed by PW8 HC Santosh Kumar, PW9 HC Rajesh Kumar who proved the deposit of case property as well as photographs of the accidental site and lastly PW10 Constable Bhim Singh.

Though prosecution evidence which incriminated was denied by the accused in his statement under section 313 Cr.PC. but the accused did not lead any evidence in defence.

The contentions of the counsel for the revisionist that the petitioner is a first convict and has a large family to support and young person has not been opposed by the State though the State counsel has sought to refute the stand of the revisionist counsel whereby prayer has been made for modification of the quantum of sentence.

Having regard to these submissions, it is established on the records that the accident has taken place on 18.11.2010 and the FIR has been registered on 19.11.2010 after a delay though it is settled preposition of law that mere delay cannot be construed as fatal to the prosecution but certainly prosecution is under bounden duty to explain for such a delay. Since it is admitted on the records that the driver of the offending car was not apprehended at the spot and therefore, this delay coupled with non

holding of test identification parade by the police are certainly matters which do have their impact on the prosecution story. Having regard to the arguments of the revisionist's counsel, the petitioner belongs to Partapgarh, U.P. and had been regularly attending trial for almost four years before the trial and thereafter almost one year before the learned first appellate court and thus the Sword of Damocles remained hanging over his head throughout. The petitioner is a young man with family to support and is certainly first offender and arduous trial of his conviction and remaining in jail for almost one year certainly rather are matters which call upon for showing leniency towards the convict. Keeping the revisionist in jail would certainly harden him. Keeping in view the family situation of the revisionist, the nature of the crime and that in the light of principles of "Reformative Theory of Criminal Jurisprudence" impels this Court to modify the sentence of imprisonment which is reduced to one year. However, having regard to the fact that the family has lost its bread earner and though admittedly the family has received compensation arising out of the claim before the Motor Accident Claims Tribunal. However, to meet the ends of justice it would suffice to order that the petitioner shall pay Rs 50,000/- as compensation to the family of the deceased over and above what the family has received in the compensation from the claims case. In case the revisionist-petitioner does not pay the amount of Rs 50,000/-, he shall

undergo the remaining part of the sentence.

In view of the aforesaid, the present revision petition stands disposed off in those terms and judgment of conviction stands modified.

April 12, 2016
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(Fateh Deep Singh)
Judge