

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

CRR No.1161 of 2016 (O&M)
Date of Decision: May 24, 2016

Vijay Kumar

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Amit Singla, Advocate
for the petitioner.

Mr.P.S.Grewal, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Vijay Kumar against State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 03.01.2013 passed by learned Chief Judicial Magistrate, Sangrur, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of seven days under Section 279 IPC and to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹1000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of fifteen days under Section 304-A IPC and also challenging the judgment dated 04.01.2016 passed by learned Addl. Sessions Judge, Sangrur, vide which appeal filed by petitioner was dismissed.

At the time of preliminary hearing, learned counsel for the

petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence.

Learned State counsel appeared and contested the petition.

The brief facts of the case as noted down in the judgment passed by learned CJM, Sangrur, are as under:-

“On 23.07.2008, Narmail Singh son of Parsina Singh resident of village Rampura Khurd, District Patiala suffered statement before the police to the effect that he was an agricultural and his nephew Bhupinder Singh alias Vicky son of Jangir Singh resident of village Rampur Khurd was working in Power Track Tractor Agency, Dyalpura, P.S. Zirakpu. He used to supply the tractors from Dyalpura to other various agencies. On 23.07.2008 Bhupinder Singh alias Vicky took a new tractor from the Dyalpura Depot and Bhupinder Singh told him that he had to deliver it to Muktsar but due to call of Punjab Bandh, he was not able to take the tractor to Muktsar. He also accompanied him on the ground that he would pay obeisance at Gurudwara Sahib, Muktsar. On the same day, at about 10.00 P.M., he along with his nephew Bhupinder Singh alias Vicky left for Muktsar. Bhupinder Singh alias Vicky was driving the tractor and he was sitting on the Mudguard of the said tractor. On the next day, at about 4.30 A.M. when they reached at Old Truck Union Chowk, Sangrur, a truck bearing registration No.HR-63-2267 being driven at a high speed, without blowing horn came from the opposite and struck against their tractor. Due to the impact, he fell down on the katcha and his nephew Bhupinder Singh alias Vicky fell down on the road under his own tractor. Then he with the help of other people gathered at the spot took Bhupinder Singh alias Vicky to Civil Hospital, Sangrur, where Bhupinder Singh was medically treated but later on at about 6.00 A.M., he succumbed to the injuries. After the accident, driver of offending truck fled away from the spot. He can identify the accused on confrontation. On the statement, complainant signed below it in Punjabi script. Thereafter, police proceedings were carried out by HC Pavittar Singh and he sent the statement to the police Station through PHG Devinder Singh, on the basis of which formal FIR was registered by HC Karamjit Singh. During the investigation, the Investigating officer visited the spot, inspected the same and prepared rough site plan of the place of accident. He got the place of accident photographed. Accidental truck and tractor were taken into police possession by preparing recovery

memos. Statements of witnesses under Section 161 Cr.P.C. were recorded. After completion of investigation, report under Section 173 Cr.P.C. was presented in the Court.”

Learned CJM, Sangrur, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Sangrur, vide judgment dated 04.01.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

Learned counsel for the petitioner argued that petitioner is first offender, poor person, only bread earner of the family and he is suffering from the criminal proceedings for the last more than 8 years.

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

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is first offender, poor person, only bread earner of the family and is suffering from long protracted criminal proceedings since 2008 i.e. for the last about eight years, the sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of one year under Section 304-A IPC instead of two years. However, the other sentence, sentence of fine and in default thereof, will remain the same.

With the above-said modification in the sentence, the present revision petition stands dismissed.

May 24, 2016
Vgulati

(INDERJIT SINGH)
JUDGE