

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

Criminal Revision 2322 of 2014

Date of Decision : May 11, 2016

Shiv Kumar		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. Sandeep Singal, 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. Vide judgment and order dated 20/24.8.2011, learned Judicial Magistrate 1st Class, Narnaul, held him guilty for both the offences. He was sentenced to undergo rigorous imprisonment for a period three months for the offence under Section 279 IPC and rigorous imprisonment for a period of one year under Section 304-A IPC. Both the sentences of imprisonment were ordered to run concurrently. The period already undergone by him in judicial custody was ordered to be set off against the substantive sentence.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 9.7.2014, learned Additional Sessions Judge, Narnaul, found no merit in the appeal and dismissed the same. Hence, the present revision.

The case of the prosecution has been stated by the lower appellate Court in para 2 of its judgment, which is reproduced herebelow:-

“The relevant facts, necessary for disposal of instant appeal are that, Pawan Kumar, son of Kanwar Singh r/o Kanina got his statement recorded with the police, allegedly, on 29.11.2006, he was going to village Gothra riding motorcycle registered No. HR-34-1858, at around 9.00 a.m., being pillion rider. However, the motor-cycle was being driven by Ghanshayam. At around 9.00 a.m. when they reached near canal, village Kotiya, one three wheeler, bearing registration No. HR-47A-1029 going ahead to them. From behind one Max bearing registration 16C-4007 came, being driven by its driver at a high speed and in rash and negligent manner and over took them. In this process, the driver of the Max hit the three wheeler. The driver of the three wheeler namely, Manohar Lal son of Prabhati Lal r/o Kanina received serious multiple injuries. He along with Ghanshyam got the injured admitted in CHC Kanina. However, Manohar Lal breathed his last in the way to hospital. The accident in question has been caused due to sole rash and

negligent driving of driver of Max prayed, prompt action against the accused. On its basis, FIR was registered. After completion of investigation challan was laid before the Ilqa Magistrate for initiation of trial.”

After hearing learned counsel for the parties and on going through the judgments passed by the Courts below, this Court is of the considered view that the petitioner has been rightly held guilty of the charges against him. The prosecution case has been proved by examining Pawan Kumar as PW3 and Ghanshayam as PW4 who at the time of the occurrence were going towards village Gothra while riding a motor-cycle. In their presence, the petitioner while driving one Max at a high speed in a rash and negligent manner and after overtaking their motor-cycle, hit three wheeler, which was going ahead of them. The said three wheeler was driven by Manohar Lal (since deceased), who received multiple injuries on his person. He was sought to be transported by Pawan Kumar and Ghanshayam to the hospital but on the way he breathed his last. The ocular account of the occurrence stands corroborated by the medical evidence by way of producing PW2 Dr. Kanwar Singh, who had conducted postmortem on the dead body of Manohar Lal. During the investigation of the case, PW8 Bhoop Singh, mechanically tested the offending vehicle and submitted his report Ex.PW8/A.

During the investigation of the case, the police had collected sufficient evidence to connect the petitioner with the accident in question. Thus, no case is made out for setting aside his conviction for the offences under Sections 279 and 304-A IPC.

Coming to the quantum of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last ten years. When he was examined by the trial Court on the quantum of sentence, he had pleaded that he was a poor person having small children and sole bread winner of his family. He was a first offender. Learned counsel for the petitioner has further submitted that he has already undergone total sentence including the remissions of about five and half months. Prayer has, accordingly, been made for taking lenient view in the matter of sentence of imprisonment.

Learned State counsel has opposed the prayer by submitting that the accident in question had taken place on account of rash and negligent driving of Max by the petitioner resulting in Manohar Lal, driver of the three wheeler receiving injuries and breathed his last while on the way to the hospital. Learned State counsel has, however, produced the custody certificate, as per which, the petitioner has undergone total sentence of five months and thirteen days.

Having heard learned counsel for the parties and

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. At the same time, he can be directed to pay fine so that the legal heirs of deceased Manohar Lal may be duly compensated.

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 petitioner is, however, directed to pay a fine of Rs. 20,000/- for the offence under Section 304-A IPC, to be deposited with the trial Court within three months from today, failing which, he shall undergo simple imprisonment for six months. The amount of fine, if deposited by the petitioner be disbursed to the legal heirs of deceased Manohar Lal, as compensation.

The revision is, accordingly, disposed of.

May 11, 2016
amit rana

(T.P.S. MANN)
JUDGE