

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

**Criminal Revision 25 of 2014
Date of Decision : May 30, 2016**

Kamal Kant		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. Nand Lal Sammi, Advocate
 Mr. Dhruv Dayal, Deputy A.G., 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 12.7.2013, learned Judicial Magistrate 1st Class, Gurgaon, convicted him for the offence under Section 279 IPC and sentenced him to undergo imprisonment for six months. He was also convicted under Section 304-A IPC and sentenced to undergo imprisonment for one year and six months. Both the sentences were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal. Vide judgment dated 10.12.2003 learned Sessions Judge Gurgaon found no merit in the appeal

and, accordingly, dismissed the same. Hence, the present revision, in which, he is currently on bail pursuant to order dated 18.2.2014.

The case of the prosecution, in nutshell, is that on 31.1.2007 at about 8.00 a.m. complainant Madan Lal along with his nephew Parkash was returning home after morning walk. When they reached near Lady Fatima School and Parkash was about ten steps ahead of him, a motor-cycle bearing registration No. HR-26-X-9281 being driven by an unknown person in a rash and negligent manner came from the side of New Colony turning and hit against Parkash. As a result, he fell down on the road and sustained injuries on his head, chest and legs and became unconscious. He was shifted to Kalyani Hospital for treatment. Later on, he was referred to Safdarjung Hospital, New Delhi, where he succumbed to the injuries.

Having heard learned counsel for the parties, this Court finds that the prosecution has led sufficient evidence to sustain the charges of Sections 279 and 304-A IPC against the petitioner. Complainant Madan Lal, who was accompanying the deceased at the time of the accident appeared before the trial Court as PW2 and deposed about the manner, in which the accident had taken place. PW3 Dr. Yogesh Tyagi had tendered his affidavit Ex.PW3/A and MLR Ex.PW3/B regarding the injuries,

which were noticed on the person of Parkash having been caused on account of the rash and negligent driving of the motorcycle by the petitioner. The investigation part of the case has been brought on record by PW1 SI Sat Narayan. Under these circumstances, no case is made out for any interference in the conviction of the petitioner as recorded by the trial Court and upheld by the lower appellate Court.

As regards the question of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last more than nine years. He was a young boy of the age of twenty four years at the time of the accident. He is not a previous convict and sole bread winner of his family. Out of the sentence of one year and six months imposed upon him, he has already undergone a period of two months and fourteen days, as reflected in the custody certificate produced by the learned State counsel. It has also been mentioned therein that neither he is involved in any other case nor convicted.

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 his remaining sentences of imprisonment. Ends of justice would be suitably met, if his substantive sentences of imprisonment on both the counts are reduced to that

already undergone by him. At the same time, he can be fined an amount of Rs.40,000/- for the offence under Section 304-A IPC so that the same be disbursed to the legal heirs of deceased Parkash, as compensation.

Resultantly, the conviction of the petitioner for the offences under Sections 279 and 304-A IPC is upheld. His substantive sentences of imprisonment on both the counts shall stand reduced to the one already undergone by him. The petitioner shall, however, pay a fine of Rs.40,000/- under Section 304-A IPC to be deposited by him with the trial Court within three months from today, failing which, he shall be required to undergo simple imprisonment for six months. The entire amount of fine, if deposited, be disbursed to the legal heirs of deceased Parkash, as compensation.

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

May 30, 2016
amit rana

(T.P.S. MANN)
JUDGE