

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

**CRR No.1533 of 2016 (O&M)
Date of Decision: August 04, 2016**

Ashok

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Arpandeep Narula, Advocate
for the petitioner.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

Mr.Sandeep Kumar Rana, Advocate for
Mr.Jeevan Lal Gautham, Advocate
for respondents No.2 to 4.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Ashok against State of Haryana and other respondents, challenging the impugned judgment of conviction dated 07.03.2013 and order of sentence dated 08.03.2013 passed by learned Addl. Chief Judicial Magistrate, Fatehabad, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of six months under Section 279 IPC and to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹2000/- under Section 304-A IPC and in default of payment of fine, to undergo rigorous imprisonment for a period of fifteen days and also

challenging the judgment dated 28.03.2016 passed by learned Sessions Judge, Fatehabad, vide which appeal filed by petitioner was dismissed. Both the sentences were ordered to run concurrently.

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 as well as learned counsel for respondents No.2 to 4 appeared.

From the record, I find that the challan was presented against petitioner in case FIR No.126 dated 02.04.2011. The brief facts of the case as noted down in the judgment passed by learned ACJM, Fatehabad, are as under:-

“2. Brief facts which led to the instant prosecution case are that on 01.04.2011 at about midnight a telephonic message was received in the Police Station, Fatehabad regarding admission of Ramesh son of Risal Singh in General Hospital, Fatehabad after getting injuries in a road side accident who has already expired. On next day, EHC Balwant Singh along with other police officials after taking rukka from Police Post, Bus Stand, Fatehabad visited General Hospital, Fatehabad and accosted Kalu Ram son of Risal Singh who was sitting besides the dead body of Ramesh Kumar. He got his statement recorded to the effect that Ramesh hwas his elder brother who was a servant of Bhagwan Singh son of Hanuman Singh, resident of Bhridana. On previous day i.e. 1.4.2011 he came to his brother Rameshh Kumar. They visited market on their cycle. After taking goods of their personal need, they were returning the Dhani of Bhagwan Singh. His brother Ramesh was driving Atlas Cycle and he was sitting on the rear side. As they reached in front of the Dhani of Indraaj son of Banwari a Bolero vehicle came in high speed, in rash and negligent manner from the opposite side and hit their cycle. Both of them fell down and got injuries on their persons. The driver of the offending vehicle fled away from spot after leaving the vehicle whom he could identify in his presence. The

registration number of the Bolero vehicle was HR55E/3700. Several persons from neighborhood came on the spot and got Ramesh admitted in the hospital where he was declared dead. The accident was the result of rash and negligent driving of driver of Bolero vehicle. A prayer to take appropriate action against the accused has been made.

3. On the basis of aforesaid statement, formal FIR was registered. Investigation was carried out. Proceedings under Section 174 Cr.P.C. were initiated. During investigation, the accused was arrested. Site plan of the place of occurrence was prepared. Statements of witnesses were recorded. Offending Bolero and accidental Cycle were taken into police custody. After completion of necessary investigation, final report under Section 173 Cr.P.C. was presented before the Court for trial of the case.”

Learned ACJM, Fatehabad, 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 Sessions Judge, Fatehabad vide judgment dated 28.03.2016.

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 since 2011 and he has already undergone actual sentence of about 4½ months. Learned counsel for the petitioner further contended that a compromise has been effected between the petitioner and private respondents.

Learned counsel for respondents No.2 to 4 also admitted the factum of compromise.

I have heard learned counsel for the parties 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 compromise and further in view of the fact that petitioner is suffering from long protracted criminal proceedings since 2011 i.e. for the last about five years and is first offender, only bread earner of the family, the sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of one year instead of two years under Section 304-A IPC. However, the other sentence, sentence of fine and in default thereof, will remain the same. Both the sentences shall run concurrently.

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

August 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No