

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

CRR No.1578 of 2016 (O&M)
Date of Decision: July 08, 2016

Muba

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

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

Mr.D.R.Singla, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Gaurav Gupta, Advocate
for respondents No.2 to 5.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Muba against State of Haryana and other respondents, challenging the impugned judgment of conviction dated 11.09.2014 and order of sentence dated 12.09.2014 passed by learned Judicial Magistrate Ist Class, Hodal, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of six months and to pay fine of ₹1000/- under Section 279 IPC and to undergo simple imprisonment for a period of one year and to pay a fine of ₹2000/- under Section 304-A IPC and in default of payment of fine, to undergo imprisonment for a period of one month and also challenging the judgment dated 01.03.2016 passed by learned Addl. Sessions Judge, Palwal, 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 5 appeared.

From the record, I find that the challan was presented against petitioner in case FIR No.98/10 dated 28.08.2010. The brief facts of the case as noted down in the judgment passed by learned JMIC, Hodal, are as under:-

“Concisely, the matrix of facts, culminating from the statement of complainant Shyam Subnder son of Kishan Singh , are that, on 27.08.2010, his mother-in-law Bato W/o Sh. Jeevan Lal, was walking towards the fields to answer the call of nature. At about 9.30 A. M., when she reached near the wood cutter machine of Bedi, suddenly a motorcycle arrived in a rash and negligent manner and hit his mother-in-law. As a result of the impact, she fell on the road. He and his wife Bimla rushed to the spot and handled her. The no. of motorcycle was HR-3-G-8486 and it was being driven by Muba son of Sibani, cast Mewar/ O Peergadi. He fled the spot when he and his wife were busy in handling his mother-in-law. They took her to Government Hospital Hasanpur, where she was given first aid then referred to GH Palwal. Due to the above said accident, Smt Bato received injuries on her left legs and also on the rest of the body. She was admitted to GH Palwal, but she succumbed to injuries. This accident has occurred due to rash and negligent driving of accused Muba, therefore appropriate legal action be taken against him.”

Learned JMIC, Hodal, 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, Palwal vide judgment dated 01.03.2016.

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 2010 and he has already undergone actual sentence of more than 4 months 7 days. Learned counsel for the petitioner further contended that a compromise has been effected between the petitioner and LRs of the deceased.

Learned counsel for respondents No.2 to 5 also admitted the factum of compromise and stated that ₹1,80,000/- as compensation was given to the LRs of the deceased by the petitioner.

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 compensation given by the petitioner and further in view of the fact that petitioner is facing criminal proceedings since 2010 i.e. for the last about six 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 simple imprisonment for a period of eight months instead of one year 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.

July 08, 2016

Vgulati

(INDERJIT SINGH)
JUDGE