

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

CRR No.3558 of 2015 (O&M)

Date of decision: 27th April, 2016

Prahlad

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Digvijay Nagpal, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

The revisionist, whose appeal stood dismissed through judgment dated 12.08.2015 of the learned Additional Sessions Judge, Gurgaon upholding the judgment of conviction dated 27.11.2014 and order of sentence dated 28.11.2014 of the Court of learned JMJC Gurgaon, has come up in the case got registered by way of FIR No.194 dated 08.06.2009 under Sections 279/304A/427 IPC pertaining to Police Station Sadar Gurgaon.

The brief allegations are that on 08.06.2009 around 9.00 a.m. deceased Gagan Aggarwal was going on his motorcycle bearing registration No.HP-26AT-9672 who was followed by his uncle complainant Ishwar Chand on his scooter and when they reached near National Highway-8, Sector 39, Devi Lal Stadium, one truck trolly bearing registration No.PJ-01GA-2878 came in a rash and negligent

manner being driven by petitioner Prahlad and which hit the motorcycle resulting into death of the deceased.

In the light of the stand of the learned counsel for the petitioner dated 22.09.2015, he has assailed the findings only on the grounds of quantum of sentence.

Heard Mr. Digvijay Nagpal, Advocate representing the petitioner; Mr. Munish Sharma, Asstt. Advocate General, Haryana on behalf of the respondent/State and perused the records of the case.

It is well reflected in the cross-examination of the complainant PW5 Ishwar Chand that the accident has taken place on the service road as there was a ditch and when the deceased in a bid to overtake the trolly came into the pothole as a result of which the accident took place and therefore, it has been rightly argued and which fact could not be controverted on behalf of the State that it was a case of contributory negligence. Even the deceased by his act of trying to overtake the offending vehicle has hit the pothole resulting in the accident for which entire blame cannot be put on the accused, but at the same time even the accused ought to be careful.

Admittedly the petitioner is a young man with a family to support and the learned State counsel squarely accepts that there is nothing to show that the revisionist has ever been involved in any other criminal case. Though certainly as has been remarked by the learned trial Court there are increasing number of road accidents on account of apathy of the motorists and therefore, the Courts cannot lose sight of the same but having regard to the manner of the

accident, certainly though the driver of the offending vehicle cannot be absolved of the criminal act as he too appears to be negligent and had he been careful he could have avoided the accident and together with the fact that immediately after the accident instead of rushing the injured to the hospital the driver of the offending vehicle has sought to escape certainly is a conduct which goes against him.

Keeping in view the sentence awarded to the revisionist by the trial Court and in the totality of what has been argued before this Court, it would meet the ends of justice if the sentence of imprisonment so awarded is modified to the period of 9 months already undergone by the revisionist and thus, in the light of the same the instant revision petition stands dismissed with this modification in the sentence. Records be sent back.

(FATEH DEEP SINGH)
JUDGE

April 27, 2016

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Whether to be referred to the Reporters or not?