

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR No. 3598 of 2013****Date of decision : 12.04.2016**

Harbans Singh

....Petitioner

V/s

State of Punjab

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Harkanwar Jeet Singh, Advocate for the petitioner.

Mr. Ankur Jain, AAG Punjab.

RAJAN GUPTA J.

Petitioner Harbans Singh had been convicted by the Sub Divisional Judicial Magistrate, Malerkotla under sections 279, 304-A IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
279 IPC	To undergo R.I. for six months.
304-A IPC	To undergo R.I. for one year and to pay fine of ₹5,000/- and in default thereof to further undergo R.I. for one month.

The petitioner preferred appeal before Additional Sessions Judge, Sangrur against the judgment of his conviction/sentence. Vide judgment dated 02.09.2015, same was dismissed. Feeling aggrieved against the judgments of both the courts below, petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that he is limiting his prayer only to the extent of reduction in the

sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 26.07.2008, Parkash Singh (deceased) alongwith his brother Sikander Singh were going on motorcycle from Malerkotla to their village Rangian. Said motorcycle was being driven by deceased Parkash Singh. At about 1.00 P.M. they reached in front of Janta Nursery, Ludhiana bye pass road, Malerkotla and stopped the motorcycle on kacha path. When Parkash Singh was parking the motorcycle at that time, one Bolero Jeep bearing registration no. PB-05K-9530 driven by the accused (petitioner herein) in a rash and negligent manner came at a high speed struck against Parkash Singh. Resultantly, he fell down and suffered multiple injuries on his body. Driver of said jeep ran away from the spot alongwith jeep. Parkash Singh was rushed to a nearby hospital by his brother Sikander Singh. He, however, on the way succumbed to his injuries. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 279 & 304-A

IPC charge was framed against the accused/petitioner, to which he

pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as ten witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under sections 279 & 304-A IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Sangrur on 02.09.2015.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is first offender and only bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record affidavit of

Rajeev Kumar Arora, Deputy Superintendent, Central Jail, Ludhiana,

according to which the petitioner had undergone actual custody of 07 months and 09 days as on 11.04.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to the period already undergone by him. But the petitioner is burdened with a fine of ₹35,000/- to be paid as compensation to the wife of the deceased namely Sukhwinder Kaur. Ordered accordingly.

As legal heir of deceased has been compensated in exercise of powers under section 357 (4), fine imposed by the court below stands waived. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

April 12, 2016

Ajay

(RAJAN GUPTA)
JUDGE