

CRR No.2460 of 2016(O&M)

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

CRR No.2460 of 2016(O&M)

Date of decision : 08.09.2016

Dheeraj

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Sarfraj Hussain , Advocate for the petitioner.

Mr.Sandeep Vashisht, DAG, Haryana.

AJAY TEWARI, J. (Oral)

This revision has been filed against the concurrent conviction of the petitioner under Sections 279/337/304-A IPC.

The brief facts are that three persons namely Pammu, Nitin and Sanjay were going on a motor cycle towards the house of aforesaid Pammu, situated at Hodal, District Palwal. Pammu was driving the motor cycle carefully and on the correct side of the road. When they reached Godota Chowk, G.T.Road, Hodal, their motor cycle was hit by a three wheeler which was being driven rashly and negligently by the petitioner (as was found out late on) as a result of which they all received injuries.

Pammu and Nitin sustained grievous injuries and were referred to Palwal whereas Pammu died on the way. The driver of the threewheeler had stopped for a while but thereafter ran away leaving his threewheeler on the spot. The petitioner was sentenced to one year imprisonment.

Learned counsel for the petitioner has argued that in this case the prosecution did not examine Dr. Vandana who conducted the post mortem on the body of deceased Pammu. As per him if the post mortem is not proved, the petitioner could not have been convicted under Section 304-A IPC. He has also argued that apart from the testimony of PW2 Sanjay(injured) there is no allegation of rash and negligent driving by the petitioner. Even PW9-Devender Kumar, who was travelling in the offending three wheeler at the time of accident, also failed to identify its driver and became hostile. As per learned counsel the trial Court has misread the evidence and wrongly convicted the petitioner. In the circumstances he prays for acquittal of the petitioner.

Learned DAG on the other hand has argued that the trial Court has passed a conviction order after appreciating the prosecution evidence. As per him in the present case two injured witnesses who were on the motor cycle and one injured witness who was travelling in the three wheeler. As per him there is a series of the judgments as per

which, even if the informant/injured turns hostile, the Court can convict

an accused if there is other credible evidence. He has also relied upon **State of Punjab Vs. Saurabh Bakshi**, reported as 2015(2)RCR(Crl.) 495 where the Hon'ble Supreme Court has laid down that the offence under Section 304-A IPC cannot be compromised. Learned counsel for the petitioner has argued that even in the case of Saurabh Bakshi (supra) the Hon'ble Supreme Court had reduced the sentence from 2 years to 6 months. He has also argued that the petitioner has undergone 3 months and five days out of total sentence of 1 year and has now faced these criminal proceedings for the past four years and has, therefore, prayed that his sentence be reduced to the period which he has already undergone.

In the circumstances even while dismissing the revision the sentence of the petitioner is reduced to six months. Let him be arrested to serve out the remaining period of his sentence.

Since the main case has been decided, the Criminal Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

September 08, 2016
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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No