

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3701 of 2015 (O&M)
Date of Decision: April 04, 2016

Ravi Kumar

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sunil Agnihotri, Advocate
for the petitioner.

Mr.P.S.Grewal, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Ravi Kumar against State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 01.03.2014 passed by learned Sub Divisional Judicial Magistrate, Abohar, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹5000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months under Section 304-A IPC and also challenging the judgment dated 21.07.2015 passed by learned Addl. Sessions Judge, Fazilka, vide which appeal filed by petitioner was dismissed. However, learned trial Court has not convicted the petitioner under

Section 279 IPC separately and held that since offence under Section 304-A IPC is a major offence, so the offence under Section 279 IPC is merged with the major offence.

The brief facts of the case as noted by learned SDJM, Abohar in its judgment are as under:-

XXX...on 11.6.2007 ASI Dalip Kumar alongwith HC Shamsher Singh, PHG Bahadar Singh, PHG Roop Singh in connection with patrol duty was present at bus stand village Kaller Khera where Nachhatar Singh Sarpanch son of Gurdev Singh resident of Village Dana Rumana recorded his statement to the effect that on 10.6.2007 he was going on his motor cycle No.PAD 0435 from his village to Ganganagar in connection with his personal work and Gurnam Singh was pillion rider and ahead of them Harmel Singh son of Surjit Singh resident of village Dana Rumana was going on his motor cycle No.PB04 J 6538. At about 9:30 PM when they reached near Jain Petrol Pump, then from the opposite direction one canter being driven rash and negligently came on high speed and struck the same into the motor cycle of Harmel Singh and complainant saved his life by stopping behind. Complainant and Gurnam Singh saw that Harmel Singh due to receipt of injuries on his head and right leg died at the spot and motor cycle was broken. Canter driver stopped the canter and came to them and on asking by the complainant and Gurnam Singh, he disclosed his name as Ravi Kumar son of unknown resident of Mansar P.S. Mukerian District Hoshiarpur and number of canter was revealed as PB10BG 0571. When complainant and other were taking care of Harmel Singh, Ravi Kumar canter driver fled away from the spot alongwith canter. It is informed that the accident took place due to rash and negligent driving of driver Ravi Kumar. ASI reached the spot and completed form no.25.35(1) and post mortem on the dead body of deceased Harmel Singh was got conducted from civil hospital, Abohar. ASI conducted spot inspection, accidental motor cycle bearing No.PB04J6538 was taken into police possession and on 12.6.2007 offending canter No.PB10BG0571 alongwith RC and driving licence of accused were taken into police possession. Accused was arrested and released on bail. On completion of necessary investigation and all other formalities challan against the accused was presented before the Court.”

At the time of preliminary hearing, learned counsel for the petitioner has not challenged the concurrent findings of the Courts below regarding conviction and only contended that sentence awarded by the Courts below is on higher side. Notice of motion was issued with regard to quantum of sentence only.

Learned State counsel appeared and contested the revision petition.

At the time of arguments, learned counsel for the petitioner argued that the petitioner is poor person, first offender and sole bread earner of the family and is facing criminal proceedings for the last about 9 years.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the fact that petitioner is first offender and stated to be sole bread earner of the family and is suffering from the long protracted criminal proceedings for the last about nine years, the sentence of the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of one year instead of two years. However, the sentence of fine will remain the same.

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

April 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE