

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

**CRR No.2727 of 2016 (O&M)
Date of Decision: August 04, 2016**

Kishori Lal

...Petitioner

VERSUS

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.K.Trikha, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Kishori Lal against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 05.06.2014 passed by learned Judicial Magistrate Ist Class, Dera Bassi, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of four months and to pay a fine of ₹200/- and in default of payment of fine, to undergo simple imprisonment for a period of three days under Sections 279 and 337 IPC each and to undergo simple imprisonment for a period of one year six months and to pay a fine of ₹300/- and in default of payment of fine, to undergo simple imprisonment for a period of three days under Section 304-A IPC and also challenging the judgment dated 12.07.2016 passed by learned Addl. Sessions Judge, Mohali, vide which appeal filed by

petitioner was partly allowed and he was only acquitted under Section 337

IPC but other conviction and sentences were upheld. Both the sentences were ordered to run concurrently.

From the record, I find that the challan was presented against petitioner in case FIR No.58 dated 04.05.2008. The brief facts of the case as noted down in the judgment passed by learned JMIC, Dera Bassi, are as under:-

“2. The relevant facts of the prosecution case are that on 4.5.2008, HC Shiam Chand, the Investigating Officer (for short the 'IO'), alongwith other police party was present in the police post where the complainant Pankaj Kumar s/o Late Shri Chaman Lal r/o Mubarkpur met with the police party and got recorded his statement to the effect that he is resident of the above said address and is working in PGI Chandigarh. On 3.5.2008 he and his father Chaman Lal were going on their separate scooters. His father Chaman Lal was driving his scooter bearing registration No.PB-11J-0225 and his son namely Ashutosh and daughter Vaishali were sitting behind his father Chaman Lal. He was also behind his father on his scooter. At about 6.00 PM, when they reached near the gate of Silver City, Focal Point, Mubarkpur, then from the opposite side, one truck came in a rash and negligent manner and in the wrong side struck into the scooter of his father. His father died at the spot. The number of truck was CH-01K-5037. He immediately saw that his son Ashutosh and daughter Vaishali sustained serious injuries. He took his children to PGI Chandigarh, but his son Ashutosh died on the way. The dead body of his father was taken to dead house at Civil Hospital, Dera Bassi. Thereafter, after treatment of his daughter Vishali from PGI Chandigarh, he came back. His deceased son Ashutosh was also taken to dead house Civil Hospital, Dera Bassi. The above said accident took place due to rash and negligent driving of the driver of Truck bearing Registration No.CH-01K-5037, who at that time ran away from the place of accident, action be taken against him. After recording the statement of complainant, FIR against accused under Section 279/337/304-A of IPC was registered. Statements of the witnesses were recorded. Post Mortem Reports of deceased Chaman Lal and Ashutosh were taken into police possession. Site plan of the place of accident was prepared. Photographs, from the place of accident were also clicked. Documents of the vehicle were also taken into police possession. Accused was arrested and he was released on police bail as the offences were bailable. After completion of entire investigation as envisaged under the Cr.P.C. the present challan has been presented against the accused for trial.”

Learned JMIC, Dera Bassi, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed and learned Addl. Sessions Judge, Mohali vide judgment dated 12.07.2016 partly allowed the appeal and acquitted the petitioner under Section 337 IPC. However, the conviction and sentence under Sections 279 and 304-A IPC were kept same.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, 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. Learned counsel for the petitioner argued that petitioner is first offender, poor person, only bread earner of the family and has small children who dependent upon him.

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

From the record, I find that the accused-petitioner was driving the truck in rash and negligent manner and he struck the truck into the scooter of the deceased and due to his rash and negligent driving, two persons have died.

Keeping in view the facts and circumstances of the present case, nature and gravity of the offence and in view of the fact that petitioner is stated to have remained in custody only for 10-12 days i.e. after the dismissal of his appeal on 12.07.2016, I do not find any ground to reduce the sentence of the petitioner. In no way, the sentence awarded to the

petitioner can be held as excessive. Adequate sentence has been awarded.

Therefore, finding no merit in the present revision petition, the same is dismissed.

(INDERJIT SINGH)
JUDGE

Yes

No