

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

CRR No.4181 of 2015

Date of Decision: June 07, 2016

Shahid Mohammad

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Arun Gupta, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH, J.

The petitioner-Shahid Mohammad, who was held guilty for commission of offences under Sections 279,337,338,304-A IPC by the Court of learned Additional Chief Judicial Magistrate, Kurukshetra and vide judgment, order of sentence dated 11.7.2014 was sentenced to undergo maximum rigorous imprisonment for one year under Section 304-A IPC and having failed in his endeavour in appeal under Section 374 Cr.P.C. which too stood dismissed through judgment dated 9.10.2015 of learned Additional Sessions Judge, Kurukshetra has sought to impugn the same before this Court in this revision. Learned counsel for the petitioner at the very onset of his submissions has sought to harbour around compassion on the ground that the petitioner is a young man with three young daughters

and that if he is sent behind the bars will bring immense misery for the family and may take him to path of crime and as the petitioner has already undergone nine months of the imprisonment, thus, prayed showing of leniency. Though, on behalf of the State prayer is sought to be opposed by learned State counsel but he has accepted the fact that the petitioner out of the maximum awarded sentence of one year has undergone incarceration for a period of nine months but sought to impress upon the Court that since the petitioner is guilty for causing death by his rash and negligent driving and which in the light of the growing numbers of accidents needs to be seriously dealt with has sought dismissal of the same.

Going through the arguments, the very mode of the accident is in itself suggestive that it is a head on collision proved through the site plan Ex.P8 and, thus, as is apparent from the impugned judgments of both the Courts below have escaped judicial notice. No doubt, that the accused-driver of truck bearing No. HR-38J-3394 ought to be careful while going on highway but it is expected from the driver of ill-fated car bearing No.CH-03Q-5108 also to ensure what is coming in front of the road and the very prosecution story bears out that it was a head on collision and, thus, certainly an element of contributory negligence which certainly needs to be considered while awarding sentence.

Having regard to the age of the convict-petitioner, who is young man having three minor daughters and as has been contended on behalf of the petitioner by his counsel that the family of the deceased too has received compensation arising out of the claim petition, thus, trying to strike a balance in view of the fact that the petitioner as has been accepted

by State counsel is a first offender and there is no previous criminal history and there is nothing suggestive to show any such earlier occasion of causing accident. If the petitioner is sent behind the bars will bring about not only penury in the family but would have its adverse impact on the growing up daughters, wife and other family members of the petitioner and petitioner might lose his job and choose path of crime and there is every likelihood that if sent to jail he will mix up with criminal elements and, thus, needs to keep him on the path of rectitude. The petitioner has already undergone nine months of imprisonment out of the awarded sentence of one year, thus, it would subserve the ends to justice, if considering these special circumstances, especially, that it is case arising of the contributory negligence impels this Court to reduce the sentence awarded to the petitioner to the period already undergone and in view of which impugned judgments of the Courts below stand modified to that extent, thereby, the instant revision petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

June 07, 2016
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