

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

**CRR No.3052 of 2016 (O&M)
Date of Decision: August 30, 2016**

Sunder

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sudhir Hooda, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sunder under Section 401 Cr.P.C. against respondent State of Haryana, challenging the impugned judgment of conviction dated 28.05.2015 and order of sentence dated 29.05.2015 passed by learned Judicial Magistrate Ist Class, Rohtak, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months under Section 279 IPC and further to undergo rigorous imprisonment for a period of one year under Section 304-A IPC and also challenging the judgment dated 02.08.2016 passed by learned Sessions Judge, Rohtak, vide which appeal filed by petitioner was dismissed. Both the sentences were ordered to run concurrently.

From the record, I find that the petitioner was sent by the Police Station Sadar, Rohtak for facing trial under Sections 279, 337 and 304-A IPC. The brief facts of the case as noted down in the judgment passed by learned JMJC, Rohtak, are as under:-

“2. The case of the prosecution has been registered on the statement of complainant Sunil son of Om Prakash resident of village Ghuskani, District Rohtak, alleging therein that he is a mason. He is married and has two children. On 5.4.2010 at about 7.30 p.m., he alongwith Sunil son of Shri Krishan resident of Ghuskani, Rohtak were going on their motorcycle bearing registration no.HR-60-6741 towards their village Ghuskani. When they reached near the field of Dhupan Nambardar resident of Jindran, Drain no.8 then one tractor-trolley came from the side of village Sanghi while driven by its driver at a very high speed and in a rash and negligent manner. He was riding the motorcycle and Sunil Son of Krishan was a pillion rider and tractor rammed into their motorcycle from the front injuring them and the tractor-trolley driver fled from the spot whose name was Sunder son of Ballu resident of Garhi Mohalla, Rohtak. Bypassers got them admitted in PGIMS, Rohtak. Sunil son of Shri Krishan expired on reaching PGIMS, Rohtak and doctor declared him brought dead. On this, formal FIR was registered. Investigation was carried out. Site plan was prepared. Accused was arrested. Statements of witnesses under section 161 Cr.P.C were recorded. After completion of investigation, challan was presented in the court for putting the accused on trial.”

Learned JMIC, Rohtak, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Sessions Judge, Rohtak, vide judgment dated 02.08.2016.

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

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

At the time of arguments, nothing has been argued as to how the findings given by the Courts below are perverse or against the law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has been not been considered by the Courts below.

Learned counsel for the petitioner argued that occurrence took

place on 05.04.2010 and the FIR was got registered on 06.04.2010 and there is delay in recording the FIR.

From the record, I find that two Courts have given concurrent findings regarding conviction and sentence of the accused. Secondly, as per prosecution version, occurrence took place on 05.04.2010 at about 7.30 P.M. and the complainant as well as deceased Sunil were admitted in PGIMS Rohtak. Therefore, the delay in recording the FIR, in the facts and circumstances, in no way, can be held as fatal. Otherwise also, the delay itself is not fatal to the prosecution case. At the most, in the cases of unexplained delay, the Court is to scrutinize the statements of witnesses more cautiously and carefully. Nothing has been argued regarding rash and negligent act of the accused nor qua his identity.

The perusal of the judgments shows that findings are correct, as per evidence and law and the evidence has been appreciated in right perspective and the judgments cannot be held as perverse or illegal.

As the accused-petitioner has been sentenced to undergo rigorous imprisonment for a period of one year under Section 304-A IPC, in no way, the sentence can be held as excessive. The adequate sentence has been awarded by the Courts below. Therefore, I do not find any ground to reduce the sentence imposed upon the petitioner.

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

August 30, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No