

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRR No. 4502 of 2015****Date of decision : 03.03.2016**

Ashok Kumar

....Petitioner

V/s

State of Haryana

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Robin Singh Hooda, Advocate for the petitioner.

Mr. Sushil Gautam, DAG Haryana.

RAJAN GUPTA J.

Petitioner Ashok Kumar had been convicted by the Judicial Magistrate Ist Class, Bahadurgarh under sections 279, 337 338 & 304-A IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
279 IPC	To undergo S.I. for three months and to pay fine of ₹500/- and in default thereof to further undergo S.I. for one month.
337 IPC	To undergo S.I. for three months and to pay fine of ₹500/- and in default thereof to further undergo S.I. for one month.
338 IPC	To undergo S.I. for one year and to pay fine of ₹500/- and in default thereof to further undergo S.I. for one month.
304-A IPC	To undergo S.I. for two years and to pay fine of ₹500/- and in default thereof to further undergo S.I. for two months.

All the sentences are ordered to run concurrently.

Petitioner preferred appeal before Sessions Judge,

Jhajjar which was dismissed vide judgment dated 09.01.2015.

Feeling aggrieved against the judgments of both the courts below, petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 21.06.2006, complainant Rajesh made a complaint to the police that he was working in a press. On the day of occurrence he had left Bahadurgarh for Rohtak on Jeep bearing registration No. HR-56-3669. Om Parkash, Mukesh Kumar, Pardeep Kumar, Bhim Singh and one lady had also boarded the said jeep. Said jeep was being driven by Ashok Kumar (petitioner herein) in a rash and negligent manner and at a high speed. At about 4.00 p.m. when they reached near the Swastik pipe factory, said jeep struck against the truck bearing registration no. HR-63A-7900 coming from the opposite direction. Resultantly, passenger of the jeep sustained injuries and were referred to CHC Bahadurgarh. On the way Pardeep Kumar died whereas Om Parkash succumbed to his injuries at CHC Bahadurgarh. On this statement, FIR was

registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 279, 337, 338, 304-A IPC charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, prosecution cited twenty three witnesses. Out of which only fourteen witnesses were examined.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. However, no witness in defence was examined by the accused.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under sections 279, 337, 338 & 304-A IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Sessions Judge, Jhajjar on 09.01.2015.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on

the ground that the petitioner is first offender and main bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has already placed on record affidavit of Jai Kishan Chhillar, Superintendent Jail, District Jail, Sonapat, according to which petitioner had undergone custody of 01 year, 03 months and 23 days including remission as on 07.01.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to 1½ years. But the petitioner is burdened with a fine of ₹60,000/- to be paid as compensation to the legal heirs of the deceased. Out of said amount of compensation, petitioner shall pay ₹20,000 to the father of deceased Pardeep Singh, ₹20,000 to wife of deceased Bhim Singh and ₹20,000 to wife of Om Parkash. Ordered accordingly.

As legal heirs of deceased has been compensated in exercise of powers under section 357 (4), fine imposed by the court below stands waived. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

March 03, 2016

Ajay

(RAJAN GUPTA)
JUDGE