

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4812 of 2015 (O&M)
Date of Decision: April 08, 2016

Rakesh alias Lilu

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Manish Soni, Advocate
for the petitioner.

Mr.Himmat Singh, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Rakesh alias Lilu against State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 13.02.2015 passed by learned Judicial Magistrate Ist Class, Pataudi, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of five months under Section 279 IPC and to further undergo simple imprisonment for a period of one year and six months under Section 304-A IPC and also challenging the judgment dated 27.11.2015 passed by learned Addl. Sessions Judge, Gurgaon, vide which appeal filed by petitioner was partly allowed and the sentence of the petitioner was reduced and he was directed to

undergo simple imprisonment for a period of one year under Section 304-A IPC instead of 1½ years and three months under Section 279 IPC instead of five months. Both the sentences were ordered to run concurrently.

From the record, I find that in the present case, FIR No.92 dated 21.06.2009 has been registered against present petitioner under Sections 279 and 304-A IPC. The brief facts of the case as noted by learned JMJC, Patna, in its judgment are as under:-

XXX...on 20.06.2009 at about 11:00 am the police at police station Farrukh Nagar received a telephone information regarding admission of Sh.Devender son of Sh.Ram Kumar, resident of village Khera Khurrampur after sustaining injuries in a roadside accident. On receiving the said telephone information, ASI Bijender Singh, investigating officer (in short I.O) along with constable Khem chand reached General Hospital, Gurgaon where he saw accosted Sh.Randhir Singh son of Sh. Bhure Lal, resident of village Jhuljhuli, P.S. Jafarpur, New Delhi, who recorded his statement to the effect that on 20.06.2009, he alongwith his relatives, Sh.Devender Son of Sh. Ram Kumar, Ram Kumar son of Shri Chand and Ram Niwas son of Sh. Shri Chand, all residents of village Khera Khurrampur had come to Farrukh Nagar his personal work. After completing his personal work, the complainant and his relatives were coming towards village Khera Khurrampur on their motorcycles. Alleged complainant and Sh.Devender were riding on a motorcycle bearing registration No. HR-26-AN-7408 of marka Passion Plus whereas Sh.Ram Niwas and Sh.Ram Kumar riding on an another motorcycle. On that day, at about 7:30 pm as soon as they reached near the Government Hospital, Farrukh Nagar, a tractor trauli came from opposite side driver of the said tractor trauli was driving it at a very high speed and in a rash and negligent manner and he rammed it in complainant's motorcycle and resultantly complainant and Sh.Devender fell down on the ground. In the said accident complainant received minor injuries whereas Sh.Devender sustained grievous injuries resultantly fainted on the spot. The complainant and his relatives noted down the company marka and the registration number of the offending tractor trauli. The driver on offending tractor trauli fled away from the spot leaving behind the vehicle.

Complainant and his relatives admitted the injured Devender Singh in Government Hospital where he was declared brought dead. He alleged that the said accident occurred due to rash and negligent driving of the driver of the tractor trauli bearing registration No. HR-AM-1830 of marka Eicher.”

Learned JMJC, Patna vide judgment of conviction and order of sentence dated 13.02.2015 convicted and sentenced the accused-petitioner as stated above. An appeal was filed by the petitioner and learned Addl. Sessions Judge, Patna vide judgment dated 27.11.2015 partly allowed the appeal and reduced the sentence of the petitioner and directed the petitioner to undergo simple imprisonment for a period of one year instead of 1½ years under Section 304-A IPC and under Section 279 IPC to undergo simple imprisonment for a period of three months instead of six months and both the sentences were ordered to run concurrently.

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

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended for reduction of sentence. Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

Today, again learned counsel for the petitioner mainly prayed for reducing the sentence of the petitioner on the ground that petitioner is facing trial since 2009 and is a poor person and only bread earner of the family.

I have heard learned counsel for the petitioner as well as

learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case that due to rash and negligence driving by the present petitioner, Devender who was riding on the motorcycle had died by sustaining grievous injuries and in view of the fact that petitioner is suffering from long protracted criminal proceedings since 2009 and in view of the fact that in the appeal filed by the petitioner, the sentence of the petitioner-appellant has been reduced as stated above, the sentence of the petitioner is reduced and he is directed to undergo simple imprisonment for a period of 11 months under Section 304-A IPC instead of one year. However, the other sentence under Section 279 IPC will remain the same. Both the sentences are ordered to run concurrently.

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

April 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE