

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

**CRR No.639 of 2016 (O&M)
Date of Decision: February 17, 2016**

Naresh Kumar

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. G.S. Bal, Sr. Advocate with
Mr. A.D.S. Bal, Advocate for the petitioner.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the judgment dated 05.02.2016 passed by learned Sessions Judge, Gurdaspur, upholding the judgment of conviction and order of sentence dated 04.09.2015, passed by learned Judicial Magistrate, 1st Class, Batala, vide which accused-petitioner was convicted for the commission of offence punishable under Section 304-A IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/-, in default thereof to further undergo rigorous imprisonment for one month.

I have heard learned counsel of the petitioner and have also carefully gone through the case file.

The facts of the case are that the FIR was registered on the statement of Satinder Singh, Junior Engineer, Powercom, Sri Hargobind Pur. In the FIR, he has stated that on 20.05.2011, he along with co-Linemen and Assistant Lineman Kaka Ram were

checking the electricity lines meant for supplying the electricity for 24 hours and when they reached near Light Wala Chowk at Tanda Road, they checked the lines, which were passing through fields of Swaran Singh son of Kesar Singh, which is adjoining to Tanda Road. At that time Assistant Lineman Kaka Ram was standing at unmetaled road, then accused Naresh Kumar came while driving a tractor bearing PB-18M-8931 in a rash and negligent manner without blowing horn and struck against Kaka Ram and left tyre of the tractor ran over Kaka Ram, Assistant Lineman. As a result of which, Kaka Ram died.

Learned counsel for the petitioner contends that the identity of the accused is not established.

However, in the FIR itself, the name and address of the accused are mentioned. Admittedly, the offending tractor belongs to the father of the accused. Father of the accused was not produced in defence to state/prove that at the given time the said tractor was lent to somebody else. The mere fact that one of the witnesses turned hostile is no ground to disbelieve the accident. Non-examination of the Investigating Officer is immaterial.

Faced with these situation, learned counsel for the petitioner prays for leniency in the sentence awarded to the petitioner.

Keeping in view the fact that against the maximum sentence of 2 years for the commission of offence punishable under Section 304-A IPC, the petitioner has been awarded rigorous

imprisonment for 1 year only, there is no scope for further reduction in the sentence.

In view of the above, the present revision petition stands dismissed.

February 17, 2016
sarita

(KULDIP SINGH)
JUDGE