

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

**CRR No.650 of 2016 (O&M)
Date of Decision: February 18, 2016**

Kashmir Singh

.... Petitioner

vs.

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Varinder Chhibbar, 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)

CRM-5563-2016

There is delay of 41 days in filing the present revision petition.

For the reasons mentioned in the application, delay of 41 days in filing the present revision petition is condoned, subject to all just exception.

Application stands disposed of.

CRR-650-2016

Mr. Harsh Garg, Advocate has appeared on behalf of respondent Nos.2 to 5.

Impugned in the present revision petition is the judgment dated 06.10.2015 passed by learned Addl. Sessions Judge, Amritsar, affirming the judgment of conviction and order of sentence dated

23.07.2015 passed by learned Judicial Magistrate 1st Class, Baba Bakala Sahib, District Amritsar, vide which the petitioner was convicted and sentenced as under:

Sr. No.	Offence punishable u/s	Sentence	Fine (₹)	In default of fine
1	279 IPC	2 months (R.I.)	500/-	7 days R.I.
2	304-A IPC	1 year (R.I.)	1,000/-	15 days R.I.

Both the substantive sentences were directed to run concurrently.

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

Learned counsel for the petitioner has argued that in this case, identity of the accused was not proved.

However, it comes out that number of the offending vehicle was recorded in the FIR itself and present petitioner is the registered owner of the offending vehicle. It is not the defence of the accused that he had lent his vehicle to somebody else. Therefore, in these circumstances, the identification of the accused even in the Court can be relied upon.

Learned counsel for the petitioner has further argued that to prove the guilt of the accused, no doctor was examined to prove the postmortem report of the deceased.

It is also proved from the statements of witnesses that Balwinder Singh died in the hospital. The death of the deceased is not denied. Therefore, even if the postmortem report is not proved, the same is immaterial. The statement of the complainant is sufficient

to prove that the deceased died because of the injuries suffered by him in the accident, which occurred due to rash and negligent driving of the accused-petitioner.

There are concurrent findings of two courts below. Therefore, there is no ground to interfere in the same.

Learned counsel for the petitioner has also argued that in this case, the petitioner has effected a compromise with the legal heirs of deceased, who have been made party i.e. respondent Nos.2 to 5. The same has been affirmed by learned counsel for respondent No.2 to 5.

I am of the view that in a case, involving the death of a man, the Court should not indulge in setting aside the judgment of conviction and order of sentence on the basis of compromise. Though, it can be taken as a ground for taking some lenient view. Therefore, keeping in view the fact that the LRs of the deceased have no objection, the sentence awarded to the petitioner for the commission of offence punishable under Section 304-A IPC is reduced from 1 year to 9 months. However, the remaining part of the sentence awarded to the petitioner for the commission of offence punishable under Sections 304-A and 279 IPC is maintained.

With the aforesaid modification, the present revision petition stands dismissed.

February 18, 2016
sarita

(KULDIP SINGH)
JUDGE

