

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

Criminal Revision No.810 of 2016 (O&M)

Date of decision: 31st May, 2016

Gaurav alias Gorav

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Ashish Aggarwal, Senior Advocate
with Mr. Kulwant Singh, Advocate,
for the petitioner.

Mr. Himmat Singh, DAG, Haryana,
for the respondent(s)-State.

Mr. Vijay S.Kajla, Advocate,
for Mr. Govind Chauhan, Advocate
for respondent Nos.2 to 4.

INDERJIT SINGH, J.

Petitioner Gaurav alias Gorav has filed the instant revision petition against respondents-State of Haryana and others, under Section 401 Cr.P.C., challenging the impugned judgment dated 09.02.2016, vide which, the learned Addl. Sessions Judge, Karnal, while upholding the judgment of conviction dated 18.11.2015 and order of sentence dated 19.11.2015, passed by the learned Judicial Magistrate Ist Class, Karnal, convicted the petitioner for the offences under Sections 279 and 304-A IPC and sentenced him to undergo rigorous imprisonment for a period of 01 year instead of 02 years under Section 304-A IPC.

At the time of preliminary hearing, learned counsel for the petitioner did not press the concurrent findings of the learned Courts below regarding conviction of the petitioner and contended only on the reduction of sentence.

Notice of motion was issued only qua quantum of sentence.

Learned State counsel as well as learned counsel for respondent Nos.2 to 4 appeared and contested this petition.

Brief facts of the prosecution case as noted in the judgment dated 18/19.11.2015, passed by the learned trial Court are as under:-

“The brief facts of the case are that on 10.11.2010, ASI Mahavir Singh alongwith Vinod Kumar was present at village Mehmadpur where a telephonic information was received to the effect that Sunil Kumar son of Raghbir and Gaurav son of Ramesh Chand have been admitted at Trauma Centre, General Hospital, Karnal in a road side accident. On this information, ASI Mahabir Singh alongwith C.Vinod Kumar reached at General Hospital, Karnal where Bal Kishan got recorded his statement to the effect that at about 11.45 a.m., he was going on his motor cycle and when he reached near Kunjpura Petrol Pump, one motor cycle having No.HR-5R-1184 was also going. In the meantime, another motor cycle came from the side which was being driven in rash and negligent manner and at high speed. The said motor cycle hit the another motor cycle directly on which both the motor cycle riders sustained injuries. Complainant attended them and found that one of the rider was Sunil Kumar son of Raghbir who was his relative. Another person was also known to the complainant who was Gaurav son of Ramesh. His motor cycle number noted down as HR/05Q/0492. Intimation to the Kunjpura Hospital was given and injured was taken to General Hospital in a Government

vehicle. Injured Sunil died in the way. On this statement, an action against Gaurav was requested on which the present case was registered. Investigation was conducted by ASI Mahabir and accused Gaurav was arrested on 08.03.2011. After completion of the investigation, challan against the accused was filed.”

Learned trial Court, after going through the evidence, convicted and sentenced the petitioner-accused (hereinreferred as 'the accused') to undergo simple imprisonment for a period of 03 months and to pay a fine of Rs.200/- and in default of payment of fine to further undergo simple imprisonment for a period of 05 days under Section 279 IPC and rigorous imprisonment for a period of 02 years and to pay a fine of Rs.1,000/- and in default of payment of fine to further undergo simple imprisonment for a period of 15 days under Section 304-A IPC.

Against the aforesaid judgment of conviction and order of sentence, the accused preferred an appeal and the learned Appellate Court while upholding the said judgment of conviction, dismissed the appeal, however, reduced the sentence to 01 year instead of 02 years under Section 304-A IPC.

At the time of arguments, learned counsel for the petitioner contended that the petitioner has effected compromise with private respondents and he has already paid Rs.3,00,000/- as compensation. Learned counsel for the petitioner further contended that petitioner has himself lost one eye in the accident and he also received injuries and he remained admitted in the hospital for a long time. He also contended that the father of the petitioner has expired and the petitioner is to look after his mother and

sisters. Learned counsel for the petitioner contended that the petitioner is the first offender and he is suffering from the long protracted criminal proceedings since 2010.

Keeping in view the facts and circumstances of the present case and in view of the facts that compromise has been effected between the petitioner and private respondents i.e. legal representatives of the deceased and the petitioner has already paid reasonable compensation to the legal representatives of the deceased and further that the petitioner had also suffered injuries in the accident in question and also he is the only bread earner of his family and is suffering from the long protracted proceedings since 2010, the sentence of the petitioner is reduced to 06 months under Section 304-A IPC. However, the sentence awarded in other offence i.e. under Section 279 IPC and sentence of fine and in default thereof in both the offences shall remain the same.

With these observation, the instant petition stands partly allowed.

31st May, 2016
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(INDERJIT SINGH)
JUDGE