

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

CRR No.905 of 2016 (O&M)
Date of Decision: July 11, 2016

Vivek Kumar

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ritesh Pandey, Advocate
for the petitioner.

Ms.Shivali, Asstt.Advocate General, Punjab
for the respondent-State.

Mr.Avtar Singh Bhatti, Advocate
for respondents No.2 to 4.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Vivek Kumar against State of Punjab and other respondents, challenging the impugned judgment of conviction and order of sentence dated 03.08.2013 passed by learned Judicial Magistrate Ist Class, Gurdaspur, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹2000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of three months under Section 304-A IPC and to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 279

IPC and also challenging the judgment dated 12.02.2016 passed by learned Addl. Sessions Judge, Gurdaspur, vide which appeal filed by petitioner was dismissed. Both the sentences were ordered to run concurrently.

Notice of motion was issued and learned State counsel as well as learned counsel for respondents No.2 to 4 appeared.

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

From the record, I find that the challan was presented against petitioner in case FIR No.116 dated 09.07.2007. The brief facts of the case as noted down in the judgment passed by learned JMIC, Gurdaspur, are as under:-

“2. Briefly, the case of the prosecution as made out from challan and the documents appended therewith, is that the present case was registered against the accused on the statement of complainant Gurpreet son of Dhirat Ram, resident of Aryian Nagar, Gurdaspur. He stated that on 09.07.2007 at about 5.00 P.M., he along with his mother Chander Kanta were coming from Tarija Nagar on a motorcycle bearing registration No.PB-66E-5140 and his uncle Som Raj was also coming behind them on different motorcycle and when they reached near village Sohal, then one bus bearing registration No.PB-11N-9535 came from opposite side which was being driven by a Hindu Gentlemen at a very high speed and negligently and struck his bus against his motorcycle as a result of which, his mother fell down on the ground and received grievous injuries. He took his mother at Civil Hospital, Batala, where she succumbed to her injuries. Investigator after recording the statement of complainant conducted spot investigation. The post mortem of the dead body was got conducted from Civil Hospital, Gurdaspur. He also received the mechanical test report from the mechanic of the same. During investigation, statements of PWs were also recorded. After completion of the investigation, the challan was prepared and presented in the court.”

Learned JMIC, Gurdaspur, after appreciating the evidence,

convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Gurdaspur vide judgment dated 12.02.2016.

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

Learned counsel for the petitioner argued that petitioner is first offender, poor person, only bread earner of the family and he is suffering from the criminal proceedings since 2007 and he has already undergone actual sentence of more than 5 months 13 days including remission. Learned counsel for the petitioner further contended that a compromise has been effected between the petitioner and LRs of the deceased.

Learned counsel for respondents No.2 to 4 also admitted the factum of compromise and stated that private respondents have no objection, if the sentence of the petitioner is reduced.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the compromise and further in view of the fact that petitioner is facing criminal proceedings since 2007 i.e. for the last about nine years and is first offender, only bread earner of the family and also in view of the fact that petitioner has already undergone actual sentence of more than 5 months 13 days including remission of 16 days, the sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of eight months instead of one year under Section 304-A IPC. However, the other sentence, sentence of fine and in default

thereof, will remain the same. Both the sentences shall run concurrently.

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

July 11, 2016
Vgulati

(INDERJIT SINGH)
JUDGE