

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No. 1131 of 2008

Date of Decision : December 19, 2017

Gajender Singh @ Japani

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. N.S. Shekhawat, Advocate
for the petitioner.

Mr. Praveen Bhadu, Assistant Advocate General, Haryana.

Mr. B.S. Saroha, Advocate
for the complainant.

T.P.S. MANN, J. (Oral)

The petitioner, namely, Gajender Singh @ Japani, was tried for committing offences punishable under Sections 279, 337, 304-A and 427 IPC. Vide judgment and order dated 22.9.2006, the Judicial Magistrate 1st Class, Narnaul acquitted him of the charges under Sections 337 and 427 IPC. He was, however, convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.5,000/-. He was also convicted under Section 279 IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.500/-. In default of payment of fine, he was directed to further undergo imprisonment for three months. The fine amount was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remain unsuccessful as it came to be dismissed by the Sessions Judge, Narnaul vide judgment dated 12.6.2008. Still not satisfied, the petitioner preferred the present revision which came up for preliminary hearing on 3.7.2008 when after hearing learned counsel for the petitioner, the Court observed that there was scope for interference regarding the quantum of sentence. Accordingly, notice of motion was issued and on the adjourned date, i.e. 18.9.2008, the revision was admitted and the petitioner was ordered to be released on bail.

According to the prosecution, on 7.2.2003, complainant-Rajender Singh, alongwith Narender Kumar left for village Chitadungra on a motorcycle for attending a marriage. Anil Kumar and Krishan Kumar also attended the marriage function. Thereafter all of them started for village Bachhod on two motorcycles. Anil Kumar was driving motorcycle bearing registration No.HR-35-A-7963 while Krishan Kumar was on its pillion seat. At about 10.00/10.30 p.m. when they reached near hotel of Rambir Pardhan situated in the area of village Khol, one jeep, make Commander, of blue colour being driven at a fast speed and in a rash and negligent manner came from Narnaul side and hit the motorcycle driven by Anil Kumar. As a result, the motorcycle was completely damaged whereas Anil Kumar and Krishan Kumar sustained multiple injuries. Anil Kumar succumbed

to his injuries at the spot whereas Krishan Kumar was admitted in General Hospital, Narnaul. The number of the offending jeep was HR-47-6493. The jeep had turned turtle on account of the accident and its driver fled away from the spot. Later on, on the basis of statement made by complainant Rajender Singh, FIR No.12 dated 7.2.2003 was registered at Police Station Ateli. During the investigation of the case, Krishan Kumar injured also succumbed to the injuries. The petitioner was arrested on 18.2.2003.

In view of the order passed by this Court at the time of preliminary hearing, it would not be appropriate to disturb the finding of conviction of the petitioner as recorded by the learned Courts below. However, the question of sentence, which is to be imposed upon the petitioner can be considered.

Learned counsel for the petitioner has submitted that the petitioner is 36 years of age and has three children, two of them are daughters, who are studying in 8th and 6th standards, respectively, whereas his son is studying in 4th standard. He is a driver by profession and sole bread winner of his family. He is facing the agony of criminal prosecution for the last about fifteen years. Out of the sentence of two years imposed upon him, he has already undergone a period of about 3½ months. Prayer has, accordingly, been made for taking a lenient view in the matter of his sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that on account of the rash and negligent driving of the petitioner, two valuable lives were lost.

As per the custody certificate brought on record by the learned State counsel, the petitioner has already undergone a total sentence of three months and thirteen days. He is not shown to be either involved or convicted in any other case.

After hearing learned counsel for the parties, this Court finds that no useful purpose would be served by sending the petitioner behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitable met if his sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine amount can be enhanced so as to make it payable to the legal heirs of the two deceased as compensation.

Resultantly, the conviction of the petitioner for the offences under Sections 304-A and 279 IPC is upheld. His substantive sentences of imprisonment on both the counts shall stand reduced to the one already undergone by him. The fine of Rs.5,000/- imposed for the offence under Section 304-A IPC is, however, enhanced to Rs.1,00,000/-. The fine of Rs.500/- for the offence under Section 279 IPC is upheld. The enhanced amount of fine be deposited by him before the trial Court within a period of

three months from today, failing which he shall be required to undergo imprisonment for six months. The entire amount of fine be disbursed in favour of the legal heirs of the two deceased, namely, Anil Kumar and Krishan Kumar, as compensation in equal shares.

The revision is, accordingly, disposed of.

December 19, 2017
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO