

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

Crl. Revision 1232 of 2008
Date of Decision : January 12, 2017

Gurdev Singh

.....Petitioner

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Vishal Gupta, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

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

The petitioner was tried for committing the offences punishable under Sections 279 and 304-A IPC. Vide judgment and order dated 17/18.12.2007, learned Additional Chief Judicial Magistrate, Yamuna Nagar at Jagadhri convicted him for the aforementioned offences and sentenced him as under:-

- i) Rigorous imprisonment for one year and to pay a fine of Rs.500/- under Section 304-A IPC and in default of payment of fine, to further undergo simple imprisonment for a period of one month; and
- ii) Rigorous imprisonment for three months and to pay a fine of Rs. 500/- under Section 279 IPC and in default of payment of fine, to further undergo simple imprisonment for one month.

The sentences of imprisonment were ordered to run concurrently. The amount of fine imposed was deposited by the petitioner there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as the same came to be dismissed by learned Additional Sessions Judge, Yamuna Nagar vide judgment dated 8.7.2008. Still not satisfied, he filed the present revision which was admitted on 25.8.2008 and he was ordered to be released on bail.

According to the prosecution, on 21.5.1998 at about 5.15 p.m. complainant-Gian Chand was going towards Bus Stand Jagadhri on his motor cycle. One truck bearing No. HR-02-GA-0037 driven by the petitioner and one scooter bearing No. UAW-4204 driven by the complainant's brother-in-law Ramesh Chand were going ahead of him. Pardeep Kumar and Sunita, the two children of Ramesh Chand were riding on his scooter. In the process of over taking the scooter of Ramesh Chand, the petitioner struck the front bumper of his truck against his scooter. As a result, Pardeep Kumar and Sunita fell down on left side of the road and front wheel of the truck ran over the head of Pardeep Kumar. As a result, Pardeep Kumar died at the spot. Sunita also sustained injuries on her head and so did Ramesh Chand. Later on, Sunita succumbed to her injuries while getting

treatment in Civil Hospital, Jagadhri. According to the complainant, the accident had taken place due to rash and negligent driving of the truck by the petitioner.

Having heard learned counsel for the parties, this Court finds that though complainant-Gian Chand while appearing before the trial Court as PW2 did not support the prosecution case in its entirety yet Ramesh Chand, father of the two deceased, who was examined by the prosecution as PW3, testified unequivocally that the accident had taken place on account of rash and negligent driving of the petitioner and, as a result, the front bumper of the truck had struck against the scooter driven by Ramesh Chand. In the process, Pardeep Kumar and Sunita, the two children of Ramesh Chand, who were riding the scooter, had fallen down at the spot. The front wheel of the truck driven by the petitioner ran over the head of Pardeep Kumar and as a result, Pardeep Kumar had died at the spot. The other child, namely, Sunita was rushed to the hospital but during treatment, she also succumbed to her injuries. Therefore, no case is made out for any interference in the conviction of the petitioner for the offences under Sections 304-A and 279 IPC.

Coming to the question of sentence, it may be noticed that the petitioner is facing the agony of criminal prosecution for the last about eighteen years. When he was heard on the

question of sentence before the learned trial Court as required under Section 248 Cr.P.C., he had stated that he was the first offender and having a large family to look after. As per the custody certificate produced by the learned State counsel, the petitioner has already undergone an actual period of one month and twenty days. He is not shown to be either involved or convicted in any other case. At the same time, this Court cannot overlook the fact that on account of the rash and negligent driving of the petitioner, the two children of Ramesh Chand had died.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine of Rs.500/- imposed upon him for the offence under Section 304-A IPC can be suitably enhanced so as to compensate the father of the two deceased children.

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.500/- imposed for the offence under Section 279 IPC

is maintained. However, the fine of Rs.500/- imposed for the offence under Section 304-A IPC is enhanced to Rs.1,00,000/- which he shall deposit with the trial Court within three months from today, failing which he shall undergo the sentence of imprisonment under Section 304-A IPC, as awarded by the learned trial Court and upheld by the learned lower Appellate Court. In the event of his depositing the enhanced amount of fine, the same shall be disbursed in favour of Ramesh Chand, the father of the children, as compensation.

The revision is, accordingly, disposed of.

January 12, 2017
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No