

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

**Criminal Revision 1281 of 2008
Date of Decision: March 14, 2017**

Bali Ram		Petitioner
	Versus	
State of Haryana		 Respondent

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

Present : Mr. Angel Sharma, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. Advocate General, 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 12.10.2007, learned Additional Chief Judicial Magistrate, Panchkula, convicted him for the aforementioned offences and sentenced him to undergo rigorous imprisonment for six months under Section 279 IPC and rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- under Section 304-A IPC and in default of payment of fine, to undergo simple imprisonment for further period of one month. Both the sentences of imprisonment were ordered to run concurrently.

Aggrieved of his conviction and sentence, the

petitioner filed an appeal but remained unsuccessful as the same came to be dismissed by learned Additional Sessions Judge-II, Panchkula, vide judgment dated 8.7.2008. Still not satisfied, the petitioner preferred the present revision, which was admitted on 26.8.2008 and his sentence of imprisonment was suspended.

According to the prosecution, on 5.9.1999 at about 9.00 a.m., the petitioner drove his truck bearing registration No. HP-07-3336 in a rash and negligent manner so as to endanger the human life and to cause injuries to any other person and in that process, the vehicle struck against the scooter bearing registration No. CH-01-W-5437, which was being driven by Sunil Kumar @ Sonu and occupied on pillion by complainant Chiranji Lal, who happened to be the grand-father of Sunil Kumar @ Sonu. The complainant alongwith his grand-son at the relevant time was returning to his village after attending a Satsang at Nalagarh. Due to the collusion, the complainant and his grand-son fell down on the road and suffered injuries. One Mangat Ram, who happened to be going to Chandigarh at that time, noted the registration number of truck and intimated the police. He also shifted Sunil Kumar @ Sonu in an injured condition to a hospital in Sector 6, Panchkula. Later on, Sunil Kumar @ Sonu succumbed to his injuries in the hospital.

Both the learned Courts below after appreciating the evidence available on record and believing the testimonies of

PW1 Mangat Ram and PW2 Chiranji Lal, held the petitioner guilty for the offences under Sections 279/304-A IPC and, accordingly, convicted and sentenced him, as mentioned above.

This Court has heard learned counsel for the parties and also perused the record.

Both PW1 Mangat Ram and PW2 Chiranji Lal despite being cross-examined at length by the defence, categorically deposed that it was the petitioner, who was driving the offending vehicle at the relevant time in a rash and negligent manner and on account of the same, the vehicle struck against the scooter, which was being driven by deceased Sunil Kumar @ Sonu. The medical evidence available on the record by way of testimonies of PW6 Dr. Shashi Bala, who had conducted the postmortem on the dead body of Sunil Kumar @ Sonu and PW9 Dr. J.C. Garg, who had medico-legally examined complainant Chiranji Lal further corroborates the ocular account of the occurrence. Merely because, the Investigating Officer was not examined by the prosecution is not sufficient to disbelieve the prosecution case especially when both PW1 Mangat Ram and PW2 Chiranji Lal have deposed in clear terms that it was the petitioner, who was driving the offending vehicle in a rash and negligent manner at the time of the accident. Under these circumstances, no case is made out for any interference in the conviction of the petitioner.

As regards the question of sentence, it may be

noticed that the petitioner is facing the agony of criminal prosecution for the last more than seventeen years. He is presently on bail pursuant to the order dated 26.8.2008. There is no material on the record, which may suggest that he has misused the concession of bail in any manner.

As per the custody certificate already brought on record by the learned State counsel, the petitioner has undergone total sentence of one month and twenty one days out of the sentence of one year imposed upon him. It is also mentioned therein that apart from the present case, he is not involved in any other case. When he was heard by the learned trial Court under Section 248 Cr.P.C. on the quantum of sentence, he had pleaded that he had wife, three children and old parents to look-after. Further, he was the sole bread winner of his family. At the same time, it may be noticed that on account of his rash and negligent driving, one young person lost his life.

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 the 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.1,000/- imposed upon him for the offence under Section 304-A IPC can be suitably enhanced in

order to compensate the legal heirs of deceased Sunil Kumar @ Sonu.

Resultantly, the conviction of the petitioner for the offences under Sections 279 and 304-A IPC is upheld. His substantive sentences of imprisonment are reduced to the one already undergone by them. The fine of Rs.1,000/- imposed upon him under Section 304-A IPC is, however, enhanced to Rs.1,00,000/-. He shall deposit the enhanced amount of fine, i.e. Rs.99,000/- by appearing in the Court of the Chief Judicial Magistrate, Panchkula within three months from today, failing which, he shall be required to undergo simple imprisonment for a period of six months. The enhanced amount of fine, if deposited by him within the stipulated period of time, be disbursed in favour of the legal heirs of deceased Sunil Kumar @ Sonu, as compensation.

The revision is, accordingly, disposed of.

March 14, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No