

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

Criminal Revision 891 of 2008

Date of Decision: May 3, 2017

Kishan Chand	Versus	Petitioner
State of Haryana		 Respondent

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

Present : Mr. Jitender Dhanda, Advocate
for the petitioner.

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

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

The petitioner was tried for committing offences punishable under Sections 279 and 304-A IPC. Vide judgment and order dated 22/23.11.2007, learned Chief Judicial Magistrate, Gurgaon, convicted him for the aforementioned offences and sentenced him as below:-

- (i) Rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/- under Section 279 IPC and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days; and

- (ii) Rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- under Section 304-A IPC and in default of payment of fine, to undergo further rigorous imprisonment for two months.

The fine amount was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as it came to be dismissed by learned Additional Sessions Judge, Fast Track Court, Gurgaon, on 8.5.2008 except for making the sentences of imprisonment for both the offences to run concurrently.

Still not satisfied, the petitioner preferred the present revision, which came up for hearing before a co-ordinate Bench of this Court on 13.5.2008, when learned counsel for the petitioner submitted that his client was ready to even compensate the heirs of the deceased in addition to the award already made in their favour by the Motor Accident Claims Tribunal. Noticing the said stand of the petitioner, the Court issued notice of motion. Subsequently, the revision was taken up for further hearing on 16.7.2008, when after obtaining instructions from the petitioner's wife, learned counsel for the petitioner submitted that his client could deposit an amount of Rs.1,00,000/- in order to compensate

the heirs of the deceased. Pursuant to the said stand, the pairokar of the petitioner deposited the aforementioned amount with the learned Chief Judicial Magistrate, Gurgaon, on 23.7.2008. In view of the same, this Court while admitting the revision petition on 24.7.2008, granted the concession of bail to the petitioner.

According to the prosecution, on 4.12.2001 complainant Rajender alongwith Vedpal was coming from Gurgaon and after taking tea at Prince Hotel situated on the National Highway, were about to leave for their village Rathiwas Bhudka when they saw that his nephew Sonu @ Manoj was coming on a bicycle and after crossing the Rathiwas cut, took a turn towards Bilaspur. In the meantime, a car being driven at a high speed and in a rash and negligent manner came from the side of Dharuhera and hit the bicycle of Sonu @ Manoj from its backside. Consequently, accident was caused which resulted in Sonu @ Manoj receiving multiple injuries and he succumbed to those injuries at the spot. The offending car was bearing registration No. DL-8CC-9504. The car driver had applied brakes for a while but then fled away.

Learned counsel for the petitioner submits that he does not challenge the conviction of the petitioner for the offences under Sections 279 and 304-A IPC. However, he submits that the

petitioner is facing the agony of criminal prosecution for the last about 15½ years. When he was examined by the trial Court on the quantum of sentence, he had pleaded that he was sole bread winner of his family consisting of three children, who were school going, his wife was a home maker whereas his parents had already expired. It is also submitted that the petitioner is neither involved nor convicted in any other case. Out of the sentence of imprisonment of two years imposed upon him, he has already undergone a period of more than two months and twenty two days. Further, he has already deposited an amount of Rs.1,00,000/- with the learned trial Court for the purposes of compensating the heirs of the deceased in addition to the amount awarded to them by the Motor Accident Claims Tribunal. Prayer has, accordingly, been made for setting aside his remaining substantive sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that on account of rash and negligent driving of the petitioner, one innocent life was lost. After causing the accident, he had not made any attempt to shift the injured to the hospital. On the other hand, he sped away from the spot.

As per the custody certificate already brought on record by the learned State counsel, the petitioner has already undergone total sentence of two months and twenty two days. He

is not shown to be a previous convict nor he is facing criminal proceedings in any other case.

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.

Resultantly, the conviction of the petitioner under Sections 279 and 304-A IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The sentences of fine alongwith their default clauses are maintained. The amount of Rs.1,00,000/- already deposited by the pairokar of the petitioner be disbursed in favour of the legal heirs of the deceased as compensation.

The revision is, accordingly, disposed of.

May 3, 2017

amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No