

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

CRR No.M-1507 OF 2011 (O&M)
DATE OF DECISION : 27th APRIL, 2017

Vijay Pal

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Manoj K. Tanwar, Advocate for the petitioner.

Mr. G. S. Salwara, Deputy Advocate General, Haryana.

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A. B. CHAUDHARI, J. (ORAL)

This revision petition is directed against the concurrent finding of fact recorded by the courts below, by which the petitioner was convicted for offence under Sections 279 and 304A IPC and sentenced to undergo rigorous imprisonment for one year and fine in the sum of ₹1000/-.

Learned counsel for the petitioner vehemently argued that it is the case of the prosecution that the driver namely the petitioner had run away from the spot. He was not identified in the absence of identification. It was not legal and proper for the Court to convict the petitioner for the aforesaid offence. He further submitted that according to the prosecution case, the father of the deceased girl was walking behind her just 20-25 steps away but the girl aged about 12 years Sangeeta was dashed from behind by the bus. According to him, as a

matter of fact, Sangeeta had suddenly come in front of the bus and that it was not the fault of the petitioner. According to him there is no evidence on record to show that the bus was being driven rashly and negligently which is the *sine qua non* for recording the conviction under Section 304A IPC. Even otherwise, in the alternative he submits that the petitioner-driver is ready to compensate the father of the girl by making payment of ₹70,000/- within a period of one month, pursuant to the order dated 09.02.2017 passed by this Court for obtaining instructions from the petitioner.

Per contra, learned counsel for the State opposed the revision petition and submitted that in the revisional jurisdiction this Court should not interfere with the finding of the fact recorded by the Courts below, since the finding is based on the facts and there is no perversity shown. He therefore, prays for dismissal of the revision petition.

I have gone through the impugned judgments and orders and the reasons recorded by the courts below.

The first submission regarding the identity of the petitioner, does not deserve to be accepted for the simple reason that the father of the girl was examined as a witness and he identified the petitioner. Apart from that the other witnesses who were at the spot identified the petitioner in the Court. The defence was that identification before the Court for the first time could not be relied upon. The trial Court has rightly found that the identification in the Court could well be accepted as the petitioner was seen by the father of the girl as well as other eye witnesses for quite a sufficient time before he ran away from the spot. In

that view of the matter, the submission made by learned counsel for the petitioner will have to be rejected.

The next submission made by learned counsel for the petitioner is that the petitioner has undergone the sentence of five months and nineteen days. The total sentence awarded to the petitioner is one year. The incident is of the date 12.09.2001. The petitioner does not have any criminal record and no offence of similar nature is registered against him.

In the light of the theory of reformation, I think, it would not be in the interest of justice to push the petitioner in jail to serve out the remaining sentence, particularly because the petitioner is ready to compensate the father of the girl by making payment of ₹70,000/-.

Thus taking over all view of the matter, I think the interest of justice will be subserved by making the following order:

ORDER

- (i) CRR No.M-1507 OF 2011 is partly allowed.
- (ii) The judgment dated 06.07.2011 passed by learned Additional Sessions Judge, Rewari and order dated 08.04.2008 passed by learned JMIC, Rewari, convicting the petitioner for offence under Sections 279 & 304A IPC, are confirmed.
- (iii) The orders of sentence awarded to the petitioner dated 09.04.2008 is set aside and modified and the petitioner is sentenced to the period which he has already undergone namely 5 months 19 days, subject to the petitioner depositing the amount of ₹70,000/- within a period of three months from the date of receipt of certified copy of this order. The trial Court

shall on deposit of amount make over the same to father of the girl by calling him in the Court.

- (iv) Failure to deposit the amount within the stipulated period as above shall result into the petitioner being taken into custody to serve out the remaining sentence.

27TH APRIL, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
Whether Reportable:	Yes	No.