

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

CRR No. 2647 of 2016

DATE OF DECISION :- December 06, 2017

Bhura Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Rohan Mittal, Legal Aid Counsel for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

Accused Bhura Singh was tried by Judicial Magistrate Ist Class, Bahadurgarh and vide judgment dated 20.7.2015 he was convicted for offences under Sections 279 and 304A of the Indian Penal Code and in terms of order passed on 21.7.2015, he was sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- for offence under Section 279 IPC and regarding offence under Section 304A, he was sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.500/-. Both the substantive sentences were ordered to run concurrently. Fine was deposited by the accused-convict.

Briefly stated the facts of the case are that on 24.9.2010 at

about 7.15 P.M., while complainant Himanshu along with Khushal were going towards Sector 6, Bahadurgarh on a motorcycle bearing registration No. HR-13E-0104, inasmuch as Khushal was driving the motorcycle on which Himanshu was pillion riding then a truck bearing registration No. HR-55F-8838 being driven by accused Bhura Singh in a rash and negligent manner coming from Delhi side, hit against the motorcycle from behind. Resultantly, Himanshu fell on the Kachha road, whereas Khushal fell on the metaled portion and his head got crushed under the tyre of the truck. Though he was taken to General Hospital, Bahadurgarh but was declared brought dead.

On the basis of statement made by complainant Himanshu, formal F.I.R. No. 371 dated 24.9.2010 for offences under Sections 279 and 304A of the Indian Penal Code was registered with Police Station, City Bahadurgarh. The case was investigated. During the course of which, the truck in question as well as motorcycle of the deceased were taken into police custody. Accused was formally arrested 30.9.2010 and was released on bail as the offences were bailable once. Statements of various witnesses were recorded and after completion of formalities challan against the accused was prepared and filed in the Court of Judicial Magistrate Ist Class, Bahadurgarh. On presentation of challan in the Court Judicial Magistrate Ist Class, Bahadurgarh supplied copies of documents relying upon therein to the accused free of cost as provided under Section 207 Cr.P.C.

Finding a prima facie case, formal charge for offences under Sections 279 and 304A of the Indian Penal Code was framed against the accused to which he pleaded not guilty and claimed trial.

During the course of prosecution evidence it examined in as many as ten witnesses i.e. PW1 Himanshu, who provided the eye witnesses account of the accident, PW2 Bharat Makkar, who had identified dead body of Khushal, PW3 Mahender, who had proved recovery memo Ex. PW3/A vide which the motorcycle was taken into police possession, PW4 EHC Bal Kishan, who proved mechanical report of motorcycle and truck involved in the accident as Ex. PW4/A and PW4/B respectively, PW5 Dr. Dara Singh, who had conducted post mortem examination on the dead body of deceased proved such report as Ex. PW5/A, PW6 Puran Chand, registered owner of truck having registration No. HR-55F-8838 proved the Superdari-nama vide Ex. PW6/A, vide which he had taken the truck on Superdari. He further stated that accused Bhura Singh was driving the aforesaid vehicle, PW7 ASI Karan Singh, the Investigating Officer deposed regarding the investigation conducted by him, PW8 Manoj Kumar Inspector proved F.I.R. Ex. PW8/A and endorsement made on the ruqa Ex. PW8/B, PW9 Nikhil Bhatia deposed that complainant Himanshu had informed him regarding the accident and PW10 SI Dhanpat Singh who had prepared challan and filed it in the Court deposed in that regard.

Since the prosecution failed to conclude its evidence despite availing several opportunities, the same was closed by the Court vide order dated 9.7.2015.

Statement of accused was recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the accused in the prosecution evidence were put to him but he denied the same and pleaded innocence. He did not lead for evidence despite availing of several

of opportunities.

After hearing arguments, the trial Court convicted and sentenced the accused as mentioned supra.

Feeling aggrieved, the accused-convict preferred an appeal in the Court of Sessions which was disposed of by Additional Sessions Judge, Jhajjar vide judgment dated 30.4.2016, inasmuch as the conviction of the accused for offences under Sections 279 and 304A of the Indian Penal Code was maintained, his conviction and sentence for offence under Section 279 IPC was kept as intact but regarding offence under Section 304A, the sentence was reduced to 1 year and 6 months from 2 years as awarded by the trial Magistrate. The fine was however kept as intact.

Still feeling dissatisfied, the accused-convict has preferred Criminal Revision Petition before this Court, notice of which was given to the State.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

At the very outset learned counsel representing the Revision petitioner stated that he does not challenge the impugned judgment on the point of conviction, however, has got submissions to make regarding the sentence part.

Learned counsel for the petitioner has contended that petitioner is a poor person and sole earning member of his family which include four children i.e. two boys and two girls and he does not have any criminal background. In terms of the custody certificate filed by the State counsel, the petitioner is not shown to be involved in any other criminal case. He is

reflected to have undergone 1 year 2 days of the total sentence including remissions.

I am of the view that ends of justice shall be adequately met if his sentence is reduced to imprisonment already undergone, while maintaining the conviction part. It is ordered accordingly.

The petition stands disposed of.

(H.S. MADAAN)
JUDGE

December 06, 2017
p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No