

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

**Sr. No.233**

**CRR No.3558 of 2016 (O&M)**

Date of decision: 03.04.2017

Satender

....Petitioner

versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present: Mr. P.R. Yadav, Advocate  
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. S.S. Khurana, Advocate  
for respondents No.2 to 6.

**DEEPAK SIBAL, J. (Oral)**

Learned State counsel has filed custody certificate of the petitioner in Court today, which is ordered to be taken on record. A copy of the same has been handed over to learned counsel for the petitioner.

On the statement of one Umesh Kumar, FIR was lodged on 20.06.2008 as per which at about 9.00 PM, the complainant alongwith Ram Niwas had come to Rewari and when they were about to return to their village, they met Mahender @ Mahesh, his younger brother and uncle namely Deshbandhu, who were riding a motor-cycle. When they reached near Tikla turn, one Maruti van, white in colour, bearing registration No.HR-55E-6028 being driven by the petitioner, hit the motor-cycle of

Mahender which caused its fall, as a result of which Mahender suffered injuries to which he succumbed in a Hospital at Rewari.

Investigations revealed that Mahender's death had been caused due to rash and negligent driving on the petitioner's part.

The petitioner was charged under Sections 279, 338, 304-A IPC; he pleaded not guilty and was put to trial. Having been found guilty in the trial, the petitioner, through judgment dated 28.01.2014, was convicted and accordingly sentenced to undergo imprisonment for a period of six months and to pay a fine of ₹1000/- for commission of offence punishable under Section 279 IPC; to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹1000/- for commission of offence punishable under Section 338 IPC and to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹1000/- for commission of offence punishable under Section 304-A IPC. The substantive sentences were ordered to run concurrently.

The petitioner challenged the above conviction and sentence by way of an appeal which through order dated 15.09.2016 was dismissed by the Sessions Judge, Rewari, giving him a cause to approach this Court through the present petition.

Order sheets reveal that on September 25, 2016, the Court was of the opinion that there was no ground to interfere in the order of conviction. However, finding scope for hearing the petitioner on the quantum of sentence, in case he was ready to compensate the heirs of the deceased-Mahender, in addition to the amount awarded by the Motor Accident Claims Tribunal, this Court issued notice in the present petition.

The heirs of the deceased-Mahender were impleaded, who after service have appeared before this Court through counsel.

On 20.03.2017, learned counsel for the petitioner had submitted that the petitioner had already undergone over six months of the total awarded sentence of one year; the petitioner was a young man of 29 years; he was having two children which included a minor daughter; he was working as a labourer in a factory and that he would be willing to pay a sum of ₹1 lakh as compensation to the private respondents who are the heirs of the deceased. In view of the submissions made, learned counsel for the petitioner prayed that the sentence awarded to the petitioner be suitably reduced. Learned counsel for the private respondents had sought and got time to seek instructions whether the above offer of ₹1 lakh as made by the learned counsel for the petitioner would be acceptable to them.

Learned counsel appearing on behalf of the legal heirs of the deceased-Mahender has very fairly stated that if an amount of ₹1.25 lakhs is directed to be paid by the petitioner to the legal heirs of the deceased-Mahender, he would have no objection if the sentence awarded to the petitioner is reduced to the satisfaction of this Court.

Learned State counsel has also not expressed any objection to the reduction in the awarded sentence awarded to the petitioner, in case the petitioner suitably compensated the legal heirs of the deceased-Mahender as also in view of this afore-referred submissions made by learned counsel for the petitioner.

It is not disputed that the petitioner has already undergone over six and a half months of actual sentence out of the total awarded sentence of

one year; he is a young man of 29 years; he is having two children including a daughter, aged 03 years; he is working as a labourer in a factory; there is no other criminal case pending against him; the present offence was the first offence for which he had been convicted; the deceased-Mahender had died on account of an accident which had taken place between the Maruti van being driven by the petitioner and the motor-cycle which the deceased was riding and that to the satisfaction of the legal heirs of the deceased, the petitioner is ready and willing to compensate them for an amount of ₹1.25 lakhs which is in addition to ₹5,14,000/- (alongwith interest) as awarded in favour of the legal heirs of the deceased-Mahender by the Motor Accident Claims Tribunal vide its award dated 25.03.2010.

In view of the above facts which are peculiar to this case, I am of the opinion that the ends of justice would be met, if the sentence of the petitioner is reduced to the period already undergone by him. This, of course, is subject to the petitioner depositing an amount of ₹1.25 lakhs before the Chief Judicial Magistrate, Rewari through two demand drafts of ₹32,500/- each favouring the children of the deceased namely Rupesh Kumar and Nidhi through their next best friend-mother (Rajni Devi) and two demand drafts for ₹30,000/- each favouring the wife of the deceased namely Rajni Devi and his mother Rewati Devi. The deposit be made within five days from today, in the absence of which, the State would have liberty to get the present petition revived.

The demand drafts after deposit shall be got handed over by the Chief Judicial Magistrate, Rewari, to the persons in whose favour they have been made.

The present petition stands disposed of in the above terms.

(DEEPAK SIBAL)  
JUDGE

April 03, 2017  
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|------|----------------------------------|---------------|
| (i)  | <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| (ii) | <i>Whether reportable</i>        | <i>Yes/No</i> |