

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

**CRR No.3687 of 2016 (O&M)
Date of Decision: July 19, 2017**

Tara Chand

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.K.Ganga, Advocate
for the petitioner.

Mr.P.S.Dhaliwal, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Tara Chand against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 24.11.2015 passed by learned Judicial Magistrate Ist Class, Dera Bassi, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of four months and to pay fine of ₹200/- and in default of payment of fine, to undergo simple imprisonment for a period of three days under Section 279 IPC and further to undergo simple imprisonment for a period of two years and to pay fine of ₹300/- and in default of payment of fine, to undergo simple imprisonment for a period of five days under Section 304-A IPC and also challenging the judgment dated 06.09.2016 passed by learned Addl.

Sessions Judge, SAS Nagar (Mohali), vide which appeal filed by petitioner was dismissed. Both the sentences were ordered to run concurrently.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioner in case FIR No.205 dated 13.07.2012. The brief facts of the case as noted down in the judgment passed by learned JMIC, Dera Bassi, are as under:-

“2- The relevant facts of the prosecution case are that on 13/07/2012 HC Bhupinder Kumar was present at the Police Station when a telephone was received that accident has taken place near tax barrier, Zirakpur in which one person has died, whose dead body has been taken to the civil hospital, Derabassi by his relatives. HC Bhupinder Kumar went to civil hospital Derabassi where Vijay Kumar, brother of the deceased got recorded a statement that he is working on state bank of Patiala as special Asst. They are 5 brothers and one sister. His elder brother Surinder Chandna, who was practising as an advocate at sessions court Chandigarh. On 13/07/2012 he alongwith his brother Surinder Chandna, aged about 60 years, were coming from Chandigarh towards Zirakpur regarding their domestic work. His brother was driving his Honda Activa bearing number CH-03 end-9733. He was driving his motorcycle bearing number CH0 1EH-7639. It was around 2:40 PM, when they had crossed Chandigarh barrier and were coming towards Zirakpur, his brother Surinder Chandna was going ahead of him. One truck came from the back side's which was being driven at a high speed in a rash and negligent manner and without giving any horn hit the Activa office brother from the back side. Due to this his brother along with Activa fell down. The front left tyre of the truck ran over the head of his brother, due to which his brother died at the spot. The truck driver stopped the truck at some distance and came at the spot. He asked the name of the truck driver who told his name as Tara Chand and a noted down the

number of the track as RJ-31-GE-2966. Driver of the truck left the truck at the spot and ran away. He thereafter took the dead body of his brother to the civil hospital Derabassi. The alleged accident took place due to the rash and negligent driving of the truck by its driver. Upon his statement FIR was got registered. Form No. 25.35 was filled, site plan was prepared, the truck, it's RC, driving license of the accused along with Aactiva and it's RC were taken into Police possession, accused was arrested. Upon completion of investigation challan was presented against the accused under section 279, 304A IPC."

Learned JMIC, Dera Bassi, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, SAS Nagar (Mohali), vide judgment dated 06.09.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner prayed for reduction of sentence. Learned counsel for the petitioner contended that petitioner is poor person, only bread earner of the family and suffering from the criminal proceedings since 2012.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is stated to be poor person, only bread earner of the family and is facing long protracted criminal proceedings since 2012 i.e. for the last about 5 years, the sentence imposed upon the petitioner is reduced and he is directed to undergo simple imprisonment for a period of one year and four months instead of two years under Section 304-A IPC.

However, other sentence, sentence of fine and in default thereof shall

remain the same.

With the above-said modification in the sentence, the present revision petition stands dismissed.

July 19, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No