

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

CRR No.4074 of 2016 (O&M)
Date of Decision: May 22, 2017

Darshan

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Balraj Gujjar, Advocate
for the petitioner.

Mr.Parveen Aggarwal, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Darshan against respondent State of Haryana, challenging the impugned judgment of conviction dated 12.05.2015 and order of sentence dated 19.05.2015 passed by learned Sub Divisional Judicial Magistrate, Kalka, vide which the petitioner was convicted under Sections 279, 337 and 304-A IPC and sentenced to undergo imprisonment for a maximum period of two years under Section 304-A IPC along with fine and also challenging the judgment dated 25.10.2016 passed by learned Sessions Judge, Panchkula, vide which appeal filed by petitioner was dismissed. All 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

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.90 dated 23.03.2012. The brief facts of the case as noted down in the judgment passed by learned SDJM, Kalka, are as under:-

“2. Tersely stated, the prosecution has come with the case that on 23.3.2012, an information was received from Govt. Hospital, Sector-32, Chandigarh regarding admission of one Shyama Devi in an injured condition due to injuries received in a road side accident. Upon receiving this information, ASI Mansa Ram along with EHC Gulab Singh was going towards Govt. Hospital, Sector-32, Chandigarh. However, near Surajpur bus stand, one Shiv Kumar son of the injured Shyama Devi, came across to him and made a complaint. Complainant Shiv Kumar stated to be working in AutoCop India Private Limited, Baddi as Assistant Manager. On 22.3.2012, he along with his mother namely Shyama Devi had taken his daughter Shweta to Bengali Clinic at Surajpur bus stand. At 11.30 am, he along with his mother and daughter was returning back from Surajpur. His mother and his daughter was present even below the road at Surajpur bus stand, when one three wheeler bearing registration no. HR-68A-4470 came from the side of Amrawati Enclave in wrong side. Its driver namely Darshan Ram son of Bachna Ram was driving it in a rash and negligent manner due to which said auto rickshaw hit Shyama Devi, mother of the complainant as well as his daughter Sheweta. Mother and daughter of the complainant fell down on the road and got severely injured. After taking first aid from Bangali Clinic, the complainant took his mother to Amrawati Hospital from where she was taken to Govt. Hospital Sector-32, Chandigarh. On 23.3.2012, the mother of the complainant namely Shyama Devi got expired due to injuries received in the said road side accident. On the basis of this statement made by the complainant, the instant criminal case was registered at Police Station, Pinjore.

3. After the registration of the case police agency swung into action. The Investigating Officer initiated the investigation and collected all the incriminating material against the accused. The statement of the witnesses were recorded under Section 161 Cr.P.C and site plan was prepared which culminated into the submission of the challan under Section 173 Cr.P.C. against the accused ”

Learned SDJM, Kalka 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 Sessions Judge, Panchkula, vide judgment dated 25.10.2016.

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 first offender, 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 first offender, 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 imprisonment for a period of one year instead of two years under Section 304-A IPC. However, other sentences, sentence of fine and in default thereof shall remain the same.

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

May 22, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No