

452 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4174 of 2016.
Date of Decision: 28.04.2017.

Siya Ram

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Vishal Nehra, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

JITENDRA CHAUHAN.J.

This revision is directed against the judgment dated 14.07.2014 and order dated 18.07.2014 passed by Sub-Divisional Judicial Magistrate, Ganaur and the judgment dated 21.10.2016 passed by Sessions Judge, Sonapat vide which the petitioner was convicted and sentenced as under:-

Offence	Sentence	Fine	In default
304-A IPC	RI for one year	Rs.1500/-	--
279 IPC	RI for three months	Rs.500/-	--

Both the sentences were ordered to run concurrently.

The brief facts of the case as noticed in the judgment passed by Sessions Judge are as under:-

“Briefly stating the facts emanating from record are

that the FIR of this case came into existence on the basis of statement of Naveen son of Ramesh, Ex.PA3/A. This statement was recorded by ASI Pawan Kumar on 11.9.2012. In the above mentioned statement the complainant had stated that he was a driver by profession and on that day he was driving the truck bearing registration No.DL-1M-5670. According to complainant in the evening he had loaded popular trees in his truck and on the way, at about 3.00 a.m. near village Bari, his conductor Hari Niwas wanted to ease himself and therefore, he parked the truck on road side and switched on the indicators. According to complainant after easing himself when Hari Niwas was checking the air pressure in the tyres of the truck, another truck bearing 3 registration No.HR-58-0466, being driven by its driver at a fast speed and in a rash and negligent manner, hit Hari Niwas. As per above named complainant because of this collision Hari Niwas died on the spot and that he had over powered the driver of the offending truck who had disclosed his name to be Siya Ram son of Mohan. According to complainant he had also informed the police by calling the control room and handed over the driver

of offending truck to the police.”

The copies of challan and other documents were supplied to the accused, free of costs.

Charges under Sections 304-A and 279 IPC were framed against the accused to which he did not plead guilty and claimed trial.

In order to prove its case the prosecution examined PW-1 Ram Niwas, PW-2 Siri Niwas, PW-3 complainant Naveen, PW-4 Sukhbir Singh, PW-5 Dr. Deepak Arora, PW-6 SI Satbir Singh, PW-7 HC Pardeep Kumar, PW-8 HC Satbir, PW-9 SI Jaswant Singh, PW-10 Jagdish Parsad, PW-11 SI Kaptan Singh, PW-12 Constable Devender, PW-13 Vijay Kumar and PW-14 ASI Pawan Kumar, IO. and thereafter closed the evidence.

The statement of accused was recorded under Section 313 Cr.P.C and all the incriminating circumstances appearing in the prosecution evidence were put to the accused. The accused denied the same and pleaded false implication.

No evidence in defence was led by the accused.

After appraisal of the evidence, the trial Court vide impugned judgment dated 14.07.2014 convicted the accused under Sections 279 and 304-A IPC and vide order dated 18.07.2014 sentenced him to undergo RI for six months with fine of Rs.500/- and RI for one year and six months with fine of Rs.1500/- respectively.

Feeling aggrieved against the judgment dated

14.07.2014 and order dated 18.07.2014, passed by the trial Court, the petitioner filed appeal before Sessions Judge, Sonapat. However, the appeal was partly accepted on 21.10.2016. The sentence of the petitioner was reduced to the period mentioned at the outset. Hence the present revision petition.

At the outset learned counsel for the petitioner states that he does not challenge the judgment of conviction on merit rather he prays for taking a lenient view in the matter of sentence. It is further submitted that the petitioner has already undergone sentence of seven months out of substantive sentence of one year; he is not involved in any other FIR; he is the sole bread earner of his family, he has been facing the agony of protracted criminal proceedings since 2007; he is ready to make reasonable payment to the legal heirs of the complainant.

On the other hand, the learned State counsel states that both the Courts below have rightly convicted and sentenced the petitioner. There is no scope of interference in the judgments passed by the Courts below.

I have heard the learned counsel for the parties and have gone through the case file.

Though, no challenge has been laid to the judgment of conviction on merits however, this Court has scanned the entire entire evidence and finds that the identity of the accused has been established beyond doubt. The petitioner was driving the offending truck rashly at the relevant date and time. He was arrested on the spot.

The offending vehicle was also taken into possession on the spot. This Court does not find any reason to interfere in the judgments of conviction.

Now reverting to the quantum of sentence, taking into consideration the fact that the petitioner has already undergone substantive part of his sentence i.e. seven months out of one year; he is the sole bread earner of his family, he is not involved in any other offence, this Court feels that the ends of justice would be better served if the sentence of the petitioner is reduced from one year to the period already undergone by him. It is ordered accordingly. However, the same is ordered subject to payment of rupees one lakh towards compensation to be paid to the LRs of Hari Niwas (deceased) within three months.

Consequently, the present revision petition is partly accepted and the impugned judgments and order are set aside partly.

A copy of the order be sent to the complainant. The complainant would be at liberty to revive the present petition if the payment is not made within the stipulated period.

The petitioner is stated to be in custody, he be released forthwith, if not required in any other case.

28.04.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No