

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 4453 of 2016 (O&M)
Date of Decision : 03.03.2017

Harish KumarPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sumeet Puri, Advocate
for the petitioner.

Mr. Jashanpreet Singh, AAG, Punjab

Surinder Gupta, J.

Petitioner was convicted for offences punishable under Sections 279, 338 and 304-A of Indian Penal Code (for short 'IPC') and sentenced by the Judicial Magistrate, Ist Class, Nabha as follows:-

<i>Sr. No.</i>	<i>Offence under Section</i>	<i>Sentence Imposed</i>
1	Under Section 279 IPC	To undergo RI for period of six months & to pay fine of ₹500/-. In default of payment of fine, convict shall further undergo imprisonment for 10 days.
2	Under Section 338 IPC	To undergo RI for period of six months & to pay fine of ₹1000/-. In default of payment of fine, convict shall further undergo imprisonment for 15 days.
3	Under Section 304-A IPC	To undergo RI for period of two years & to pay fine of ₹3000/-. In default of payment of fine, convict shall further undergo imprisonment for two months.

2. Petitioner filed appeal before the Sessions Judge, Patiala, which was dismissed and his conviction and sentence as awarded by the trial Court was maintained.

3. As per case of prosecution, petitioner due to his rash and

negligent driving of car bearing registration no. PB-11-BJ-9452 hit motorcycle being driven by Rupinder Singh on which Karamjit Singh was a pillion rider, resulting in injuries and death of Karamjit Singh at the spot.

4. Learned counsel for the petitioner has not challenged the conviction awarded to the petitioner for offences punishable under Sections 279, 338 and 304-A IPC but has only confined his submission for taking a lenient view regarding quantum of sentence submitting that the petitioner is not a previous convict and is a young boy of 26 years of age. The accident took place in early morning hours as the motorcycle, on which the deceased was going with Rupinder Singh, was behind a tractor in which sugar (*shakkar*) was being carried. The petitioner is the only bread earner of his family. The death in accident is no doubt unfortunate but the petitioner, who is not having any resource, is not in a position to compensate family of the deceased but they have got the compensation by filing the petition under Section 166 of the Motor Vehicles Act. The petitioner has his wife and small children to look after and these facts were not taken into account by the Courts below while awarding sentence to the petitioner.

5. In view of submission of learned counsel for the petitioner, the conviction of the petitioner for offence punishable under Sections 279, 338 and 304-A IPC is maintained. However, keeping in view the fact that petitioner is not a previous convict and his antecedents, sentence awarded to him under Section 304-A IPC is reduced from rigorous imprisonment for two years to rigorous imprisonment for one year and six months.

6. The revision petition is partly allowed modifying the sentence of imprisonment as aforesaid.

7. Copy of this order be sent to all the concerned for necessary action.

March 03, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No