

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

CRR-4756-2016

Date of decision-10.03.2017

Balwinder Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Deepak Gupta, Advocate for
Mr. Vivek Goel, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Kamal Chaudhary, Advocate for the respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

This revision petition is directed against judgement and order dated 18.12.2015 passed by Judicial Magistrate First Class, Faridkot vide which the petitioner was convicted under Sections 304-A, 337 and 279 of Indian Penal Code (in short 'IPC'); and the judgement dated 28.09.2016 passed by learned Additional Sessions Judge, Faridkot vide which the appeal filed by the petitioner was dismissed.

The brief facts of the present case as noticed in the judgment passed by Lower Appellate Court are as under:-

“Instant case was got registered on the basis of statement got recorded by Bhola Singh (complainant) son of Darshan Singh, wherein he stated that on 20.02.2013 when he was present near the shops of village Hari Ke Kalan near the turn of road, at about 6.30 PM, Buta Singh son of Makhan Singh resident of

village Wander Jatana, was seen coming on motorcycle bearing registration No.PB-46-B-8406 from Muktsar side, on his left side and a milk canter bearing No.PB-04M-9717 was also seen coming behind him, which was being driven on high speed and in rash and negligent manner. While crossing the motorcycle of Buta Singh, canter driver struck the canter against motorcycle of Buta Singh, due to which Buta Singh fell on the road and also received injuries on his head. He was taken to hospital. A case under Section 279, 337 IPC was got registered. Statements of witnesses were recorded. Site plan of the place of occurrence was prepared. On receipt of medical ruqa from GGS Medical College & Hospital, Faridkot regarding death of injured Buta Singh, offence under Section 304-A of IPC was added. Accused was arrested. Postmortem of the dead body was conducted. On completion of entire investigation, he was challaned to face trial under Sections 304-A, 279, 337, 427 of IPC.”

On appearance, the copies of documents were supplied to the accused under Section 207 Cr.P.C free of cost. Charges under Section 279, 304-A of IPC were framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined PW-1 Bhola Singh (complainant), PW-2 Paramjit Singh (eye witness), PW-3 Dr. Ashwani Kumar, PW-4 Dr. Ramesh Kumar, PW-5 Dr. Prempal Bhatti, PW-6 ASI Rajinder Singh and PW-7 ASI Gurpreet Singh. Thereafter, prosecution evidence was closed by order.

After closure of the prosecution evidence, the statement of the petitioner/accused was recorded under Section 313 Cr.P.C. in which all the incriminating materials available in the statement of the witnesses of the prosecution was confronted to the accused to which he denied and pleaded his innocence.

However, in his defence the accused did not lead any defence and closed his defence evidence.

After appraisal of the evidence, the learned trial Court convicted and sentence the accused as under:-

Offence	Sentence
304-A IPC	To undergo rigorous imprisonment for one year
279 IPC	To undergo rigorous imprisonment for six months

Feeling dis-satisfied, the accused preferred appeal before Additional Sessions Judge, Faridkot Vide judgement dated 28.09.2016, the appeal was dismissed.

Still feeling dis-satisfied, the petitioner has challenged both the aforesaid judgments before this Court.

Learned counsel for the petitioner states that he does not challenge the judgment of conviction. However, he prays for reduction of sentence on the ground that the petitioner is a poor person as well as sole bread winner of his family. He has been facing agony of protracted criminal proceedings since 2013.

Even though the petitioner does not challenge the judgment of conviction, this Court has re-scanned the evidence and finds that judgments

are in conformity with law. The factum of accident caused by the petitioner was proved by PW-1 Bhola Singh, complainant who deposed that the accident took place between motor cycle of deceased and milk canter which was driven by the petitioner/accused, near the shops of village Hari Ke Kalan at about 06.30 p.m on 20.02.2013. The accused was driving the vehicle in a rash and negligent manner. As a result, Buta Singh was killed. The prosecution version is corroborated by the testimony of PW-2, Parmjit Singh, an eyewitness of the occurrence. He tendered true account of the accident taking place in front of his eyes, but turned hostile during cross-examination. This being so, this Court finds that the judgements of conviction have been rightly passed. As such, the conviction of the petitioner for the offences punishable under Sections 304-A and 279 IPC is affirmed.

However, there is substance in the arguments of learned counsel for the petitioner so far as quantum of sentence is concerned.

As per the custody certificate, the petitioner has already undergone actual sentence of 03 months and 29 days as on date out of substantive sentence of one year. The petitioner is the sole bread winner of his family and the occurrence took place in the year 2013. This Court feels that ends of justice would be met if the sentence of the petitioner is reduced from one year to nine months, subject to payment of Rs.50,000/- to legal representatives of deceased Buta Singh within a period of three months from today, as compensation. In case, the amount is not deposited this petition would be deemed to have been dismissed without further notice. The

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

(JITENDRA CHAUHAN)
JUDGE

March 10, 2017

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No