

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

CRR No.1061 of 2017 (O&M)
Date of Decision: November 15, 2017

Mustakh Ali alias Mustak Ali

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Aditya Sanghi, Advocate
for the petitioner.

Mr.Kuldeep Sharma, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Mustakh Ali alias Mustak Ali Singh against respondent State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 13.06.2013 passed by learned Judicial Magistrate Ist Class, Narnaul, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹5000/- and in default of payment of fine, to undergo simple imprisonment for a period of one month under Section 304-A IPC and further to undergo rigorous imprisonment for a period of six months under Section 279 IPC and also challenging the judgment dated 09.03.2017 passed by learned Addl. Sessions Judge, Narnaul, 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 challan was presented against accused-petitioner in case FIR No.113 dated 21.07.2009 under Sections 279, 304-A and 427 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Narnaul, are as under:-

“2. The brief facts of the prosecution case are that on 20.7.2009 ASI Satbir alongwith Constable Bijender No.669 were on patrolling duty and were present at Nizampur chowk. There they got an information from police chowki to the effect that near the village Pawera an accident was taken place. On that information, he alongwith Constable Bijender went to the spot and there Jagmal Singh Ex-Sarpanch, village Dholera met them and got his statement recorded to the effect that on 20.7.2009 he and Jai Dayal Singh son of of Prahlad singh were coming on his motorcycle from their village to Nizampur for some personal work. Further just ahead of them Lal Chand son of Chander Bhan was also going on his motorcycle bearing registration No. RJ 18SC- 9881 at about 4:00 p.m. When they reached near village Pawera a truck came in a very high speed being driven in rash and negligent manner by its driver. They were going at their left side and Lal Chand also drove his motorcycle on its left side. Further the truck driver drove his truck suddenly at his right side and thereby hit the motorcycle of Lal Chand from the front side. Thereby Lal Chand alongwith his motorcycle came under the tyres of that truck and truck driver dragged Lal Chand alongwith his motorcycle for about 20 feet under his truck. Lal Chand sustained injuries on his head, chest, legs, face and forehead and bleeding was started from his face and head. Lal Chand died on the spot because of sustaining those injuries and a lot of damage was caused to the motorcycle. Upon noticing, the number of truck was found HR 55E-7149. Driver of the truck ran away from the spot leaving his truck there and his name

was not known to him but if he would appear before the court then he will recognize him. Hence the driver of truck No. HR 55E-7149 by driving his truck in rash and negligent manner caused accident and hence present complaint has made so that strict action can be taken against driver. Consequently, FIR was registered. Investigation of this case was conducted. Site plan was prepared. Statement of witnesses recorded. Accused arrested and produced before the court. Later on he was released on bail by the court. After completion of all formalities of investigation, police challan u/s 173 Cr.P.C. was presented against the accused.”

In order to prove its case, prosecution examined PW-1 Jai Dayal, PW-2 Ram Swaroop, PW-3 Dalip Singh, PW-4 Dr.Sanjay Bishnoi, PW-5 Jagmal Singh, PW-6 Kamal Singh, Retd. SI, PW-7 ASI Chander Hass, PW-8 Satbir Singh and PW-9 Hoshiyar Singh, Retd. SI.

In the statement under Section 313 Cr.P.C., the accused denied all the incriminating evidence and pleaded his innocence. No witness was examined in defence.

Learned JMIC, Narnaul, after appreciating the evidence, convicted and sentenced the petitioner as stated above. Appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Narnaul, vide judgment dated 09.03.2017.

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

At the time of arguments, again learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only prayed for reduction of sentence imposed upon the petitioner. Learned counsel for the petitioner is a poor person, first offender, only bread earner of the family and he is suffering from the criminal proceedings since 2009.

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 poor person, first offender, only bread earner of the family and is facing long protracted criminal proceedings since 2009 i.e. for the last about 8 years, the sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of 11 months under Section 304-A IPC instead of two years. However, other sentences, sentence of fine and in default thereof, shall remain the same. Both the sentences shall run concurrently.

With the above-said modification in the sentence, the present revision petition stands dismissed. Petitioner Mustakh Ali alis Mustak Ali, who is in custody, be set at liberty, on completion of sentence of 11 months, subject to payment of fine, if already not paid.

In compliance of separate order of even date, the petitioner has deposited demand draft of ₹1,50,000/- with the Registrar General of this Court to be paid to the legal heirs of the deceased. Therefore, Registrar General of this Court is directed to disburse amount of above-said demand draft to the legal heirs of the deceased, as per law.

November 15, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No