

I have heard the learned counsel for the accused-revisionist and have also carefully gone through the file.

CRR No. 1909 of 2017 (O/M)

The learned counsel for the accused-revisionist has argued that in the statement, the complainant had not stated that the dumper was driven rashly and negligently, though he had stated that it was driven at a high speed. The learned counsel for the accused-revisionist has referred to the site plan, which shows that the deceased was standing in front of his house. I am of the view that even though the complainant has not stated specifically that it was rash and negligent act. However, it can be inferred from the circumstances. It was a abadi area. The accused-revisionist was driving a dumper, which was alleged to be overloaded. Therefore, he was supposed to be more careful as in the abadi area, it can be expected that somebody can suddenly come in front of the vehicle. The fact that the dumper that passed over the body of deceased Ram Singh shows that it was driven rashly and negligently and at a high speed. There are concurrent findings of two Courts below. Therefore, there is no ground to interfere in the same.

The learned counsel for accused-revisionist has referred to the authority of this Court in CRR No. 2162 of 2015, titled as Dal Chand Versus State of Haryana, decided on 15.9.2015, and prayed for grant of benefit of probation. The learned counsel has also referred to the authority of Apex Court in State of Karnataka Versus Satish, 1998 (8) SCC 493.

I am of the view that in the given circumstances and in the cases involving death due to rash and negligent driving of a vehicle, the benefit of probation is not required to be extended to the accused. The lower appellate Court has already shown leniency by reducing the sentence awarded under Section 304-A IPC from one year simple imprisonment to six months simple imprisonment.

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The learned counsel for accused-revisionist has produced the affidavit of son of the deceased and the complainant stating that the compromise has been effected.

The offence under Section 304-A IPC is not compoundable. The lower appellate Court has already shown the leniency. No further leniency is required to be shown. Hence, the present revision is dismissed.

(KULDIP SINGH)
JUDGE

3.7.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No