

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

CRR No.3537 of 2017 (O&M).

Decided on:-July 10, 2018.

Sukhchain Singh.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

**CORAM:    *HON'BLE MR. JUSTICE HARI PAL VERMA.***

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Present:-    Mr. Saurabh Sharma, Advocate  
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Rohan Sharma, Advocate  
for the complainant.

**HARI PAL VERMA, J.**

The petitioner has filed the present revision petition against the judgment dated 16.08.2017 passed by learned Additional Sessions Judge, Karnal whereby his appeal against the judgment of conviction dated 17.07.2014 and order of sentence dated 19.07.2014 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Karnal was dismissed.

Briefly stated, FIR No.695 dated 28.08.2010 under Sections 279 and 304-A IPC was registered against the petitioner-accused at Police Station Civil Lines, Karnal on the allegations that on 27.08.2010 at about 8.00 P.M., complainant Bharat Bhushan @ Bharti along with his father had gone to Nirmal Kutia as usual to pay obeisance there on foot. After having paid the obeisance, at about around 09.30 P.M., when they reached near Maharana

Partap Bhawan, a white coloured car being driven by its driver rashly, negligently, at a high speed and without blowing any horn came from the rear side and hit his father. The car was driven at such a high speed that it dragged his father ahead along with it. The driver of the car at once fled away from the spot after leaving the car there when he saw his father's critical condition. The registration number of the car was HR-51N-0055 and it was a TATA Indica Vista car. One Vinod Kumar was already standing there, who witnessed the said accident. The complainant along with Vinod Kumar brought his father in Government Hospital, but he succumbed to the injuries on the way.

The investigation was conducted by the police. The petitioner-accused was arrested and produced in the Court. Statements of witnesses were recorded and after completion of investigation, Challan was filed in the Court.

The copy of Challan as envisaged under Section 207 Cr.PC was supplied to the petitioner-accused. On finding a prima facie case against the petitioner, he was charge-sheeted under Sections 279 and 304-A IPC, to which he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 17.07.2014 convicted the petitioner for the commission of offence punishable under Sections 279 and 304-A IPC.

Vide separate order dated 19.07.2014, learned trial Court sentenced the petitioner-accused as under:

| <u>Offence</u>        | <u>Sentence</u>                                                                                                                           |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| Under Section 279 IPC | Simple imprisonment for three months and fine of Rs.1,000/- and in default thereof, to further undergo simple imprisonment for one month. |

Under Section 304-A  
IPC

Rigorous imprisonment for one year and six months and fine of Rs.9,000/- and in default thereof, to further undergo simple imprisonment for three months.

It was, however, ordered that both the substantive sentences of imprisonment shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 16.08.2017 passed by learned Additional Sessions Judge, Karnal, appeal of the petitioner was dismissed.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

At the outset, learned counsel for the petitioner has not challenged the conviction of the petitioner and confined his submissions only for a lenient view regarding quantum of sentence. He has contended that as against the awarded sentence of one year and six months, the petitioner is in custody since 16.08.2017 i.e. the date when the impugned judgment was passed by learned appellate Court.

Learned counsel for the petitioner has further submitted that the petitioner is a first time offender and there is no other criminal case pending against him. He is a poor person having other family members to look after. He has been suffering the agony of criminal proceedings since 28.08.2010 i.e. the date of registration of the FIR in question. Thus, he has prayed that the sentence of the petitioner may be reduced to the period already undergone by him.

On the other hand, learned State counsel has not disputed the custody of the petitioner, but has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner. However, he states that there is no other case against the petitioner.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 279 and 304-A IPC. The appellate Court has also rightly dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, as against the awarded sentence of one year and six months, the petitioner is in custody since 16.08.2017 i.e. the date of passing of the impugned judgment by learned appellate Court. As such, he has already undergone imprisonment for more than 10 months and 23 days. He is a first time offender and there is no other case pending against him. He has been facing the agony of criminal proceedings since 28.08.2010 i.e. the date when the FIR in question was registered against him. Therefore, taking into account the protracted trial, antecedents of the petitioner coupled with the fact that he has already suffered

incarceration for a period of more than 10 months and 23 days, this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him, subject to payment of fine of Rs.15,000/- under Section 304-A IPC instead of Rs.9,000/-, as imposed by learned trial Court and affirmed by learned appellate Court.

Ordered accordingly.

Perusal of the order of sentence dated 19.07.2014 passed by learned trial Court shows that the fine as imposed by the trial Court was paid by the petitioner. Therefore, on deposit of increased amount of fine of Rs.6,000/-, the petitioner be released forthwith, if not required in any other case.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

**July 10, 2018**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No