

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

236

CRR-2944-2018(O&M)

Date of Decision:05.10.2018

Rahul

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Yashpal Thakur, Advocate,  
for the petitioner.

Mr. Anmol Malik, A.A.G., Haryana.

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HARI PAL VERMA, J.(Oral)

CRM-31017-2018

Prayer in this application filed under Section 5 of the Limitation Act read with Section 482 Cr.P.C. is for condonation of 75 days delay in filing the instant revision petition.

For the reasons mentioned in the application, same is allowed and the delay of 75 days in filing the present revision petition, is condoned.

CRR-2944-2018

Petitioner-Rahul son of Hakim Singh, resident of Sultanpur, District Kannauj, Uttar Pradesh, has filed the present revision petition challenging judgment dated 20.03.2018 passed by learned Additional Sessions Judge, Gurugram, whereby his appeal against the judgment of conviction and order of sentence dated 09.06.2015 passed by learned

Judicial Magistrate 1<sup>st</sup> Class, Gurgaon, was dismissed.

Briefly stated, on the intervening night of 23/24/12.2012, the complainant and his colleagues Naresh and Ajay were going towards their room after completing their duty. When they reached near Shani Mandir, a tractor having a water tanker attached with it came at a high speed in a rash and negligent manner and hit Ajay Kumar from behind due to which, he fell down on the road and the tractor along with water tanker went over the head and body of Ajay. The driver of the tractor tried to run away from the spot but was apprehended. Later on Ajay died due to injuries sustained by him.

Learned Magistrate vide judgment dated 09.06.2015 had convicted the petitioner for offences punishable under Sections 304-A, 279 IPC and Section 192(1) of the Motor Vehicles Act in case FIR No.169 dated 24.12.2012, registered at Police Station Sector 17/18, Gurgaon and vide separate order of even date sentenced him as under:

| <b>Under Sections</b> | <b><u>Sentence</u></b>                                                                                                                                                            |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 304-A IPC             | Rigorous imprisonment for a period of one year and to pay fine of Rs.2000/-. In default of payment of fine, to further undergo rigorous imprisonment for a period of one month.   |
| 279 IPC               | Rigorous imprisonment for a period of six months and to pay fine of Rs.1000/-. In default of payment of fine, to further undergo rigorous imprisonment for a period of one month. |
| 192(1) MV Act         | To pay fine of Rs.2000/- and in default of payment of fine, to undergo simple imprisonment for a period of one month.                                                             |

It was, however, ordered that all the 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,

Gurgaon, dismissed his appeal.

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

On September 05, 2018, when the instant criminal revision came up for hearing before this Court, learned counsel for the petitioner did not challenge the conviction of the petitioner and restricted his arguments qua the quantum of sentence only.

Learned counsel for the petitioner submits that the petitioner is a first time offender and there is no other case pending against him. Further, the legal heirs of deceased Ajay have also been compensated by the Motor Accidents Claims Tribunal and an award of ₹23,15,250/- has been passed in their favour. 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 stated that as per the custody certificate already on record, the petitioner has undergone imprisonment for a period of 07 months and 25 days including remission. Though he has opposed the plea of taking a liberal view, as pleaded by learned counsel for the petitioner, but conceded 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 offences under Sections 279, 304-A IPC and Section 192(1) of MV Act. The appellate Court has also dismissed his appeal qua these offences. There is no illegality or perversity in the findings given by both the Courts below regarding

conviction of the petitioner under Sections 279, 304-A IPC and Section 192 (1) of MV Act, which may warrant interference of this Court by invoking its 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, the custody certificate so placed on record by learned State counsel shows that as against the awarded sentence of 01 year, the petitioner has already undergone actual imprisonment for 07 months and 25 days including remission. 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 24.12.2012 i.e. the date when the FIR in question was registered against him. Moreover, the legal heirs of the deceased have adequately been compensated by the concerned Motor Accidents Claims Tribunal.

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 07 months and 25 days including remission, 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.

Ordered accordingly.

However, there shall be no change in the sentence of fine.

The petitioner be released forthwith, if not required in any other case, subject to payment of fine, as imposed by learned trial Court and

affirmed by learned appellate Court, if already not paid.

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

October 05, 2018  
seema

(HARI PAL VERMA)  
JUDGE

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