

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

**CRR No. 3941 of 2016
Date of decision: 01.02.2019**

Sakir

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. Arun Kumar, AAG, Haryana.

ARVIND SINGH SANGWAN, J.

Prayer in this revision petition is for setting aside the judgment of conviction dated 28.03.2016 and order of sentence dated 29.03.2016, passed by the trial Court, vide which, the petitioner was held guilty for committing offences punishable under Sections 279 and 304-A of the IPC and was sentenced to undergo simple imprisonment for one and half years and to pay a fine of ₹500/- under Section 304-A IPC along with simple imprisonment of three months and to pay a fine of ₹500/- under Section 279 IPC; as well as judgment dated 19.09.2016, whereby the appeal, filed by the petitioner was dismissed by the lower appellate Court.

Brief facts of the case are that on 25.12.2013, a telephone was received at Police Station Nuh regarding an accident occurred at Ferojpur Namak in which a person, namely Rihan, sustained injuries and on the way to hospital, said injured person died. On receiving this information, ASI Deep Chand, along with Constable Gajender, reached Medical College, Nalhar and obtained the dead body for postmortem examination.

Complainant, namely Arshad, moved an application before him submitting that he is an agriculturist by profession and on that day, at about 1.30 PM, his nephew Rihan was going to Madarsa from his village Ferojpur Namak and while he was crossing the road, a vehicle make Swift VDI bearing registration No. HR-51-A-2443, being driven at a very high speed and in rash and negligent manner, came there from the side of Sohna and hit his nephew Rihan and had fled away from the spot towards Nuh. Thereafter, he along with father of Rihan took injured Rihan to Medical Hospital, Nalhar, where he was declared 'brought dead'. In the last, complainant prayed that legal action be taken against the accused. On the basis of this statement, the present FIR was registered and investigation was conducted by ASI Deep Chand. After necessary investigation, Challan under Section 173 Cr.P.C. was presented before the Court for initiation of trial against the accused/petitioner.

The accused/petitioner was chargesheeted under Sections 279 and 304-A of the IPC by the Chief Judicial Magistrate, Nuh, to which, he pleaded not guilty and claimed trial.

The trial Court, after hearing both the parties, held the petitioner guilty for commission of offences punishable under Sections 279 and 304-A of the IPC and sentenced him as noticed above. The petitioner, against the aforesaid judgment of conviction and order of sentence, passed by the trial Court, preferred an appeal before the lower appellate Court, however, the same was dismissed. Hence, the present revision petition.

During the pendency of the present petition, on 13.02.2017, noticing the fact that petitioner had already undergone a period of about 05 months, his sentence was suspended.

In view of the fact that notice of motion was issued with regard to quantum of sentence only, therefore, learned counsel for the petitioner has not raised any argument on merit of the case.

Learned counsel for the petitioner has submitted that the deceased was a child, aged about 9/10 years, and the parents of the deceased, i.e. mother Aayesha and father Saif Mohd., have filed a claim petition under Section 166 of the Motor Vehicle Act, in which, Motor Accident Claims Tribunal, Mewat, vide award dated 23.04.2015, had awarded a compensation of ₹2,45,000/- along with interest of 9% in their favour and the said compensation is to be paid by the National Insurance Company Ltd.

Learned counsel for the petitioner has further submitted that petitioner is ready to compensate the parents of the deceased by way of making another payment of ₹50,000/- and prayed that the sentence, awarded to the petitioner, may be reduced considering the mitigating circumstances that he is the first offender and a young person and has his own family to look after.

Learned counsel for the petitioner further submitted that petitioner is a tractor driver and has limited source of income to support his own family and in case his sentence is not reduced, he and his family will face great hardship.

Learned counsel for the petitioner further submitted that petitioner, during the period when he was on bail, has not repeated any such offence and has shown improvement in his behaviour and in case, sentence of the petitioner is reduced, he can further improve his behaviour and character in future as there is no complaint against him after the registration

of the present FIR.

Learned State counsel, on the basis of the custody certificate, filed in Court, has not disputed the factual position.

After hearing learned counsel for the parties, I uphold the judgment of conviction, however, the sentence awarded to the petitioner is reduced to the period already undergone by him with the condition that he will deposit an amount of Rs. 50,000/- with the trial Court/Illaqua Magistrate and the said amount shall be payable to the legal representatives of the deceased as per the award of Motor Accident Claims Tribunal.

It is made clear that in case the aforesaid amount is not deposited with the trial Court/Illaqua Magistrate on or before 01.05.2019, this revision petition shall be deemed to have been dismissed and the petitioner will surrender to undergo the remaining sentence.

With the above observations, this revision petition stands partly allowed.

February 01, 2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No