

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Criminal Revision No.1966 of 2019 (O&M)
Date of Decision: November 25, 2019

Surender
.....PETITIONER(s).

VERSUS

State of Haryana
....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. C.L. Verma, Advocate
for the petitioner (s).

Ms. Dimple Jain, A.A.G., Haryana.

SURINDER GUPTA, J.

Petitioner faced trial in case bearing FIR No.767 dated 16.12.2013 registered at Police Station Sector-55, Faridabad for the offence punishable under Section 279 and 304-A of Indian Penal Code (for short-IPC) and was convicted and sentenced by learned Judicial Magistrate, Faridabad as follows:-

Offence U/S	Sentence awarded	Default clause
279 IPC	To undergo rigorous imprisonment for six months and to pay a fine of ₹1,000/-.	In default of payment of fine, to further undergo rigorous imprisonment for 15 days.
304-A IPC	To undergo rigorous imprisonment for 18 months/1.5 years and to pay a fine of ₹2,000/-.	In default of payment of fine, to further undergo rigorous imprisonment for one month.

Petitioner filed appeal, which was dismissed by learned

Additional Sessions Judge, Faridabad vide judgment dated 04.06.2019 and his conviction and sentence as awarded by the trial court was upheld.

Brief facts:-

As per case of the prosecution, Shiv Kumar, nephew of complainant, left for his duty on 16.12.2013 on his motorcycle bearing registration No.HR-51-AP-1965. Complainant also left home on his separate motorcycle bearing registration No.HR-51AM-4487. When Shiv Kumar reached near Plating Zone Road, Sector-58, Faridabad, a tractor along with trolley loaded with bricks came from the side of Escort Company, which was being driven by the petitioner in a rash and negligent manner and hit motorcycle of Shiv Kumar, resulting in serious and grievous injuries to him and the motorcycle was badly smashed. Complainant rushed towards the spot and noted the registration number of the tractor as HR-52A-0314. Petitioner, who was driving the tractor, fled away from the spot. Injured was taken to B.K. Hospital, Faridabad, where he was declared as 'brought dead'.

Learned counsel for the petitioner, without challenging the conviction of petitioner on merits, has confined his submission only for a lenient view on the quantum of sentence, stating that petitioner has faced the trial for the last 6 years; he is a first offender; belongs to labour class; has young children and family to look after; and has already undergone 05 months 21 days of imprisonment as on 24.11.2019.

Learned State counsel has argued that this case calls for no leniency as the petitioner due to his rash and negligent driving, has caused the accident, resulting in death of Shiv Kumar. The sentence awarded to the

petitioner commensurate with the offence committed by him.

On giving a careful thought to the submission of learned counsel for the petitioner and learned State counsel, I am of the considered opinion that the offence committed by the petitioner is quite serious, however, keeping in view the fact that he is a first offender and was in the prime of his youth (may be around 22 years of age) at the time of accident and has faced trial for the last about 6 years, I am of the opinion that the ends of justice will be fully served if the sentence of petitioner awarded under Section 304-A IPC is reduced from rigorous imprisonment for 18 months/1.5 years to rigorous imprisonment for one year (excluding remissions). The sentence under the remaining offence awarded to the petitioner including the sentence of fine, calls for no interference.

In view of the above discussion, this petition is partly accepted. Conviction of petitioner for the offences punishable under Sections 279 and 304-A IPC is upheld. However, sentence awarded to him for the offence punishable under Section 304-A IPC is reduced from rigorous imprisonment for 18 months to rigorous imprisonment for 12 months (excluding remissions). The sentence of fine is, however, kept intact with default clause.

Copy of this judgment be sent to Superintendent, District Prison, Faridabad for compliance.

November 25, 2019
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No