

**CRR No.11896 of 2018 (O&M).
Date of Decision: 15.07.2019.**

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2. The petitioner was held guilty and was convicted for commission of offence punishable under Sections 304-A and 337 of the Indian Penal Code (for short, 'IPC') in case F.I.R. No.222 dated 26.05.2006 registered under Sections 279, 337, 304-A IPC, at Police Station Assandh, Karnal and was sentenced as under:-

Name of convict	Offence	Sentence Awarded	Fine	In default of payment of fine
Krishan	304-A IPC	RI for 01 year	Rs.5000/-	SI for three months
-do-	337 IPC	RI for six months	Rs.500/-	SI for one month

3. Facts relevant for the purpose of decision of the present revision petition; on 25.05.2006, complainant-Rakhpal alongwith Prem Singh were going towards village Salwan on motorcycle. At about, 10:30 PM when they reached village Dupedi, they found Pawan, Gajender, Sompal alias Billu and Devender were going in Jeep No.DNB-7887, which was hit by a truck bearing No.HR-47-3423, being driven by its driver in a rash and negligent manner at a very high speed. Because of collision, persons sitting in the jeep sustained injuries and out of them, Gajender and Pawan died on the way to the hospital and injured Sompal alias Billu and Devender were admitted to the hospital. The driver of the offending truck ran away from the spot but was identified by the complainant and Prem Singh. Injured Sompal alias Billu also succumbed to the injuries. On the basis of the statement of the complainant, the present F.I.R. was registered.

4. After completion of investigation proceedings, challan was presented before the trial Court.

5. During trial, learned trial Court completed various proceedings of trial including framing of charge, recording statements of prosecution witnesses and examination of the accused (petitioner herein) under Section 313 Cr.P.C. After considering the material and evidence available on record, learned trial Court held the petitioner guilty for commission of offence under Sections 337 and 304-A IPC and convicted him in the manner narrated above, vide judgment and conviction dated 04.02.2014 and order of sentence dated 05.02.2014.

6. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned first appellate Court vide judgment dated 10.10.2018.

7. At the time of issuing notice of motion, vide order dated 21.05.2019, it was contended by learned counsel for the petitioner that he does not challenge the judgment of conviction. Today also, at the very outset, learned counsel for the petitioner contended that he does not challenge the judgment of conviction and a lenient view on the point of sentence be taken as the petitioner has already undergone actual sentence of 08 months and 22 days (including remissions) against the awarded sentence of 01 year as per the custody certificate dated 29.05.2019.

8. Learned State counsel contended that the petitioner does not deserve any concession regarding sentence and the present revision petition be dismissed.

9. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that both the Courts below have already appreciated the evidence in its perspective manner. As such, the present revision petition, qua judgment of conviction passed by the Court below, stands dismissed.

10. As regard to order of sentence, this Court has certainly considered that a lenient view is to be taken in this case. The petitioner has already undergone actual sentence of 08 months and 22 days (including remissions) against the awarded sentence of 01 year as per the custody certificate dated 29.05.2019 (which means that by now he has already undergone sentence of more than 10 months), taking a lenient view on the point of sentence, the order of sentence is modified that the sentence of petitioner, Krishan in this case shall be reduced to the period he has already undergone while remaining in custody in this

case. The petitioner be released from custody in this case, if not required in any other case.

11. Resultantly, the present revision petition stands disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

15.07.2019

jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No