

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

CRR-2502-2009

Date of decision : 13.09.2022

Mukesh Kumar

..... Petitioner

versus

State of U.T. Chandigarh Administration

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gobind Dhanda, Advocate
for the petitioner.

Mr. Ashish, Advocate for
Mr. Amit Kumar Goyal, Advocate
for the respondent-U.T.

PANKAJ JAIN, J. (Oral)

This revision has been filed against the judgment dated 29.08.2009 passed by Additional Sessions Judge, Chandigarh whereby the judgment and order dated 03.04.2006 passed by the Judicial Magistrate 1st Class, Chandigarh and conviction of the petitioner for offences punishable under Sections 279 IPC and 304-A IPC has been affirmed. He has been sentenced as under:-

Section (IPC)	Rigorous Imprisonment	Fine (in Rs.)	In default of payment of fine (rigorous imprisonment)
279	6 months	-	-
304-A	1 year	200	15 days

2. As per prosecution version on 21.02.2002, one Dass Ram Singh lost his life in a motor vehicular accident on account of rash and negligent driving of the petitioner. The deceased who was driving cycle

was struck by three wheeler being driven by the petitioner.

3. Trial Court after appreciating the evidence on record, came to the conclusion that the prosecution has proved its case beyond doubt. Accident was caused on account of rash and negligent driving by petitioner and thus, convicted him for offences punishable under Section 304-A IPC read with Section 279 IPC.

4. The petitioner preferred an appeal before the lower Appellate Court. The learned appellate Court found that the judgment and order of sentence by the learned trial Court does not suffer from any infirmity and consequently, dismissed the appeal.

5. Counsel for the petitioner contends that in case, finding of conviction is being maintained, the act of the petitioner is of negligence and not intentional. He is a first time offender and sole bread earner of his family. He submits that apart from this case, there is no other case pending against the petitioner. Thus he prays that a lenient view be taken against the petitioner especially in the light of the fact that he is facing protracted trial for the last 16 years.

6. Learned State counsel submits that both the Courts below have rightly found petitioner guilty of offences punishable under Section 304-A IPC read with Section 279 IPC. It is a case wherein a precious life was lost in the accident. He further submits that the petitioner has undergone actual custody of 3 months and 10 days out of total sentence of 1 year R.I. awarded for offences punishable under Section 304-A IPC and a fine of Rs.200/- and 6 months R.I. for offences punishable under Section 279 IPC.

7. In support of his prayer, counsel for the petitioner relies upon *Jagdish Chander vs. State of Delhi* reported as *AIR 1973 2127* wherein the Apex Court taking in view the mitigating circumstances, reduced the sentence of imprisonment from six months to a period of three weeks of imprisonment already undergone by the accused. He further relies upon *Nand Ballabh Pant vs. State (Union Territory of Delhi)* reported as *AIR 1977 890* wherein the accused, convicted under Section 304-A of IPC, was sentenced to two months RI and the same was reduced by Supreme Court to one month and the fine was enhanced from Rs 500 to Rs 1,000.

8. Further reliance has been placed upon the orders passed by Coordinate Bench in *Criminal Revision No.843 of 1995 titled as Nirmal Singh @ Pappu Vs. State of Haryana* decided on 04.03.2008, wherein the sentence of convict under Section 304-A was reduced to already undergone. He further relies upon **CRR-1931-2010** decided on 23.07.2019 titled as '**Chander Bhan vs. State of Haryana**' wherein considering the factum of law laid down by Apex Court in **State of Punjab vs. Saurabh Bakshi** reported as **2015(2) RCR Criminal** this Court reduced the sentence to the period actually undergone.

9. I have heard learned counsel for the parties and have carefully gone through the record of the case. It is a case of rash and negligent driving by the petitioner. More so, three wheeler was coming from the opposite side and hit the cycle of the deceased. Consequently, no fault can be found with the findings recorded by the Courts below. Hence, conviction of the petitioner is upheld.

10. However, it can not be lost sight of the fact that he has undergone actual sentence of 3 months and 10 days out of 1 year. He is a

first time offender. There is no case pending against him. He is stated to have never misused concession of bail suspension of sentence. He has already faced protracted trial for last 16 years. Considering all these facts cumulatively, sentence awarded by the Courts below is modified to already undergone.

11. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

13.09.2022
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No