

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1264-2013 (O&M)

Reserved on 27.11.2024

Date of pronouncement: 10.01.2025

Ram Niwas

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. KBS Mann, Advocate for the petitioner

Mr. Chetan Sharma, DAG Haryana

Sandeep Moudgil, J.

(1). This petition under Section 401 CrPC has been filed by the petitioner seeking to quash the judgment dated 15.10.2011 and order of sentence dated 17.10.2011 passed by JMIC, Faridabad and the judgment dated 29.09.2012 passed by Addl. Sessions Judge, Faridabad convicting the petitioner under Sections 279/304-A IPC in case FIR No.43 dated 25.01.2005 under Sections 279/304-A IPC, registered at PS Sector 7, Faridabad.

(2). The prosecution's case is based on the testimony of complainant Suresh Kumar, son of Mangal Dass, who stated that on January 25, 2005, at approximately 6:30 p.m., he witnessed a tractor trolley, driven recklessly by its driver, collide with a cyclist near the Bata flyover in Faridabad. The impact was fatal, and the cyclist-deceased Mani Ram died instantly. Suresh Kumar provided a detailed description of the deceased, including his attire, age (approximately 22 years), and height (around 5 feet). He also identified the offending tractor's registration number as RSD 1380. After the accident, the driver abandoned the tractor and fled the scene. Suresh Kumar's statement led

to the registration of the present case, followed by the arrest of the accused. The trial court vide judgment dated 15.10.2011 convicted the petitioner holding that at the relevant time, he had driven his vehicle in a rash and negligent manner and thereby caused death of Mani Ram, and was thus held guilty for committing offence punishable under Sections 279 & 304-A IPC and as such, vide separate order of quantum of sentence dated 17.10.2011 he was sentenced to pay fine of Rs.1000/- and undergo RI for six months under Section 279 and to further undergo RI for 2 years with fine of Rs.3000/- under Section 304-A IPC and the sentences shall run concurrently.

(3). Criminal appeal was filed by the petitioner before the Addl. Sessions Judge, Faridabad which too affirmed the conviction and sentence awarded by the trial court and vide its judgment dated 21.09.2012 dismissed the appeal of the petitioner.

(4). Vide order dated 06.08.2013, keeping in view the fact that the petitioner had undergone 8 months & two days of custody as on 23.05.2013 and since he was not involved in any other case, his sentence was ordered to be suspended.

(5). Learned counsel for the petitioner argued that the test identification parade of the petitioner was not conducted and as per the prosecution story, he was not arrested at the spot as he allegedly sped away from the spot leaving behind the tractor trolley. He submits that the petitioner was arrested subsequently but was not identified by PW6 Suresh Kumar – the complainant in Court and therefore, the courts below erred in not giving benefit of doubt to the petitioner and have wrongly and illegally convicted him.

(6). It is further urged that neither the case property was produced before the trial court nor the owner of the offending vehicle was examined or produced in Court and besides no private or independent witness other than the official witness have been put to cross-examination by the petitioner before the courts below. It is then submitted that the photographs taken by PW7 Sham Mantra does not mention any date and time which is immaterial in evidence.

(7). Learned State counsel submits that as per prosecution version on 25.01.2005 at about 6.30 pm the petitioner was driving tractor in question in a rash and negligent manner which hit the cyclist and he died on the spot and the said incident was witnessed by Suresh Kumar (PW6), who immediately got the FIR lodged. He submits that the star witness who is the complainant himself and an eye-witness to the whole incident has supported the case of the prosecution and is an independent witness and as such, the ingredients of Section 279 and 304-A IPC viz. rash driving on public way which caused death by negligence and rashness of the driving of the tractor trolley, are made out against the petitioner.

(8). At this stage, learned counsel for the petitioner submits that the petitioner has been sentenced for undergo RI for 2 years under Section 304-A besides RI of 6 months under Section 279 IPC which has ordered to run concurrently and out of the said total sentence the petitioner has already undergone 8 months & 2 days of custody as on 23.05.2013. He submits that he does not assails the conviction of the petitioner and confines his argument to the alternative prayer that his sentence be reduced to the period already undergone taking into consideration the fact that over these years since the

fateful incident, he has been running around in the corridors of the Court and much misery has been inflicted upon him.

(9). Taking into consideration the totality of the circumstances, this Court is of the view that ends of justice would be best met if the substantive sentence of imprisonment of the petitioner is reduced to that already undergone by him.

(10). Resultantly, the conviction of the petitioner as awarded by the trial Court is maintained, his substantive sentence of imprisonment is reduced to that already undergone by him.

(11). With these observations and direction, the petition stands dismissed.

10.01.2025
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No