

2025:PHHC:055693



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

CRR 1768 of 2024

Date of Decision: 28.04.2025

Rajesh @ Rajesh Kumar

...Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Raman Chawla, Advocate, for the petitioner.

Mr. Gagandeep Chinna, AAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgment dated 17.08.2024 passed by the Sessions Judge, Panchkula and the judgment and order dated 28.02.2023 passed by the Judicial Magistrate 1st Class, Panchkula, whereby, the petitioner has been convicted for the offences punishable under Sections 279, 337 and 304-A IPC and sentenced as follows:-

Under Section 279 IPC Imprisonment for a period of six months and to pay fine of Rs.1000/- for the commission of offence punishable under Section 279 of IPC. In default of payment of fine, convict shall undergo simple

imprisonment for a period of fifteen days.

Under Section 337 IPC *Imprisonment for a period of six months and to pay fine of Rs.500/- for the commission of offence punishable under Section 337 of IPC. In default of payment of fine, convict shall undergo simple imprisonment for a period of fifteen days.*

Under Section 304-A IPC *Imprisonment for a period of one year and to pay fine of Rs.1000/- for the commission of offence punishable under Section 304-A of IPC. In default of payment of fine, convict shall undergo simple imprisonment for a period of fifteen days.*

2. At the very outset, learned counsel for the petitioner contends that he does not wish to challenge the judgment of conviction in the present case, however, some leniency may be shown while awarding the sentence to him. Even though, learned counsel for the petitioner has chosen not to challenge the judgment of conviction, still, the Court has examined the case on merits.

3. The FIR in the present case was registered on the basis of the statement made by Niyamat son of Taj Mohammad, resident of village, Vikrambagh, Police Station Kala Amb, District Sirmour (Himachal Pradesh) and he was a farmer by occupation. In the morning of 01.06.2017, he alongwith his grandfather Shahnawaz and

his mother Meena Begum went to PGIMER, Chandigarh for medical treatment. At about 06.30 p.m. when he was returning from PGIMER, Chandigarh and reached near Sonu Dhaba, ahead of Raipur Rani, a mule-cart was going ahead of him. Therefore, he slowed down the speed of his car bearing registration No.HP-18-A-0413 make Maruti of white colour. However, in the meantime, a canter bearing registration No.HR-39-C-5714 being driven by its driver in a rash and negligent manner came and hit his car bearing registration No. HP-18-A-0413 from behind. Resultantly, his car lost balance and hit the mule-cart, whereas the said canter overturned on its right side. Akram son of Kamaldin alongwith his wife Rasula and his sons Adil aged 2½ years and Kadil aged 04 months was coming from the opposite direction and came under the said canter. Amram, Adil and Kadil died at the spot whereas Rasula wife of Akram was referred to GMCH, Sector 32, Chandigarh from CHC, Raipur Rani. This accident was caused due to the rash and negligent driving of unknown driver of canter bearing registration No.HR-39-C-5714. In the meantime, Noor Darshan son of Neemu Deen came on his motorcycle and after arranging a private vehicle, shifted the dead bodies to CHC, Raipur Rani. On these facts, a request for taking stern action against unknown accused was made. Upon this, complaint alongwith endorsement was sent to Police Station Raipur Rani through HC Sunil Kumar No. 1017 for registration of the case.

4. After presentation of the challan, the accused was charge sheeted for the offences punishable under Sections 279, 337 and 304-A IPC.

5. In order to support the case, the prosecution had examined 12 witnesses, namely, HC Sunil Kumar as PW1, Mukesh Kumar, owner of the offending canter as PW2, Kamal, an eye witness to the accident in question as PW3, EASI Ram Pal as PW5, Niyamat, complainant/eye witnesses of the accident in question as PW5, Inspector Arvind Kumar as PW6, Dr. Venu as PW7, Dr. Manav as PW8, Rasula, injured and eye witness of the accident in question as PW9, ASI Rakesh Kumar, Investigating Officer of the present case as PW10, Mustak Ali as PW11 and Dr. Vikas Chadha as PW12.

6. From the evidence led before the trial Court, it is apparent that the driver of the cantor, i.e., the accused had run away from the spot. However, PW1 HC Sunil Kumar was examined by the prosecution, who categorically stated that on 06.06.2017, the present petitioner was arrested and his test identification parade was got conducted by the police. He proved on record the identification memo Ex.P1 in this regard. Apart from that, the both the Courts have correctly relied upon the testimony of PW5 Niyamat Ali, complainant and eye witness in the present case. While appearing as a witness, he clearly stated that he identified Rajesh Kumar in police station to be the person, who had caused the accident, as alleged in the FIR. He

had given the vivid account of the entire occurrence and also identified the present petitioner while appearing as a witness before the trial Court. Apart from that, from a perusal of the identification memo Ex.P1, it is apparent that the petitioner had caused the accident in the present case. The prosecution further examined Rasula PW9, who who suffered injuries in the accused and she clearly deposed that she had seen the accused, while getting down from the truck and running away from the spot. Thus, she had seen the accused at the place of accident and had also identified him before the Court and her testimony itself conclusively proved that the petitioner was involved in the crime. Apart from that, the prosecution had placed reliance on the statement of PW10 Rakesh Kumar, who had also identified the accused in the present case. Even during the course of trial, the accused could not discredit their testimonies and the said witnesses had withstood the test of cross examination. Even, certain minor discrepancies on trivial matters were pointed out before both the Courts, which have been rightly rejected by both the Courts. Thus, this Court does not differ from the findings recorded by both the Courts and is of the firm opinion that the petitioner had committed the offence under Sections 279, 337 and 304-A IPC.

6. Now adverting to the order of sentence, this Court is conscious of the fact that the FIR in the present case was registered on 02.06.2017 and the petitioner is facing the prosecution for the last

almost 08 years. Moreover, the petitioner was aged about 30 years at the time of his conviction and is the sole bread winner for his family. He was awarded the total maximum sentence of 01 year and he has already undergone 10 months and 17 days of sentence out of total sentence of one year. Thus, taking a lenient view of the matter, the sentence imposed on the petitioner is reduced to the period already undergone by him. However, the amount of fine shall remain the same.

7. With these above modifications, the present revision petition is partly allowed. The impugned judgments of conviction are upheld whereas the order of sentence is modified to the extent as indicated above. The petitioner shall be released from the custody forthwith, if not required in any other criminal case.

8. All pending applications, if any, are disposed off, accordingly.

9. The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

28.04.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No