

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

**CRR No.1592 of 2005
Date of Decision: July 15, 2015**

Raj Pal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. D.S. Nirban, Advocate
for the petitioner.

Mr. Sukhdeep Singh Brar, Addl. A.G. Punjab.

FATEH DEEP SINGH, J.

Having being unsuccessful throughout, firstly upon his conviction through judgment and order of sentence dated 16th/17th September, 2004 by the learned Judicial Magistrate 1st Class, Narnaul and, thereafter, dismissal of his appeal by the learned Sessions Judge, Narnaul through impugned judgment dated 16th August, 2005 the convict has sought to assail the same in this revision.

Heard learned counsel for the parties and perused the records of the case.

The brief allegations spelled out by Ashok Kumar-complainant are that on 31.8.1999 around 7 a.m. he along with others including deceased Pushpa were standing at the bus stand of Raghunathpura when the offending jeep No.DL-4CD-0298 driven rashly and negligently at a high speed by revisionist-Raj Pal struck against the deceased resulting in her death. It was on the basis of complaint Ex.PW2/A his statement Ex.PW2/A was recorded leading to registration of FIR Ex.P3. The police prepared rough site plan of the place of occurrence Ex.PW7/C, inquest report and took the offending vehicle into

possession by way of Ex.PW7/D. Upon receipt of post mortem report Ex.PW1/A as to the cause of death, the accused was put to trial. Prosecution in order to prove its case examined 07 witnesses and accused denied the allegations but did not lead any evidence in defence and, thus, the impugned findings happened to be passed.

Since the petitioner has come up in revision in terms of Section 401 Cr.P.C. and, thus, the very correctness, legality and propriety of the findings, sentence or order so recorded needs to be gone into. Though, the counsel for the revisionist has sought to assail the false implication, however, during the course of submissions it has transpired that a suggestion has been put to one of the eye-witness PW6 Mangal Singh on behalf of the accused during his cross-examination that the deceased was crossing road when the accident had taken place invariably leads to the irresistible conclusion that the defence admits the accident having taken place. Since there is no evidence led by the defence in their support and, thus, the entire evidence has remained unrebutted as well as the plea earlier put up by way of defence and which in the cross-examination of the witnesses have not been brought about in a legitimate manner. As has been observed in the impugned judgement the learned 1st Appellate Court has noticed that the stand of the defence admitting the accident while the deceased was crossing the road are matters which have their impact on the case of the defence. It is the case of the prosecution that though the driver tried to escape with the vehicle but remained unsuccessful and, thereafter, had ran away from the spot in the presence of an eye-witness leaves no scope to doubt as to the identity of the accused and which arguments have sought to be raised with much elance on behalf of the revisionist.

Since accused had been very well identified by the

eye-witness at the spot, the vehicle has been recovered from the site of the accident and it is not the case of the accused in his defence that he was not the driver of the vehicle in question are matters which do not augur well for the accused-petitioner and, therefore, the argument of the learned counsel for the revisionist that no test identification parade was held becomes untenable. Thus, from all this evidence, in the impugned judgment it has been rightly concluded that the very chain of events are so well connected so as to establish the case of the prosecution to the hilt. As a last ditch effort has been made by the revisionist's counsel seeking reduction of the sentence. As has been observed by the learned 1st Appellate Court which has castigated the trial Court for its obtrusive approach an invaluable human life of a young girl has been lost and the accused had been convicted by the trial Court for commission of offences under Sections 279 and 304-A IPC which prescribes sentence up to 2 years with or without fine but the learned trial Court without giving any reason has only awarded a meagre sentence of 6 months under Section 304-A IPC and one month under Section 279 IPC which certainly needs to be deprecated. Thus, the sentence so awarded is already too inadequate qua the nature of the offence for which the revisionist has been convicted.

In view of these observations, nothing illegal or perverse stands reflected in the impugned findings and there being no merit the revision being hopelessly without any merit stands dismissed.

Necessary intimation be sent to the trial Court.

(FATEH DEEP SINGH)
JUDGE

July 15, 2015
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