

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

Crl. Revision No.2353 of 2005 (O&M)

Date of decision: 16.01.2015

Avtar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioner.

Mr. Daljit Singh Virk, AAG, Punjab.

Ritu Bahri, J.

Challenge in this petition is to the judgment dated 13.12.2005 passed by the Additional Sessions Judge (Adhoc), Fast Track Court, Ludhiana, dismissing the appeal filed by the accused-petitioner against the judgment of conviction and order of sentence dated 05.11.2003 passed by the Additional Chief Judicial Magistrate, Ludhiana.

The trial Court, vide judgment dated 05.11.2003, convicted the accused-petitioner under Sections 279 and 304-A IPC and sentenced him as under:-

Offence	Sentence
U/S 279 IPC	To pay a fine of Rs.1000/-. In default of payment of fine, to undergo rigorous imprisonment for a period of 2 months.
U/S 304-A IPC	Rigorous imprisonment for a period of 1 year and to pay a fine of Rs.1000/-. In default of payment of fine, to undergo rigorous imprisonment for a period of 2 months.

On 15.04.1999, Harpinder Singh and his uncle namely Gurdev Singh went to Grain Market, Barundi in order to give meal to Avtar Singh, father of Harpinder Singh, where they had stacked their wheat. At about 8.00 P.M., Avtar Singh was about to move from a sweet shop situated at bus stand, Barundi after taking *burfi* from there. When Harpinder Singh and his uncle reached there, they all proceeded towards the grain market. Avtar Singh was going ahead on a scooter and Harpinder Singh along with his uncle Gurdev Singh were following him. When they reached near the cremation ground of village Barundi, a tractor make Farm Track bearing registration No. PB-56-A-3675 being driven by accused Avtar Singh son of Bikkar Singh in a rash and negligent manner, came from backside and struck against the scooter of Avtar Singh, father of Harpinder Singh, as a result of which, Avtar Singh fell down from the scooter and received severe injuries on his face and other parts of the body. Thereafter, he became unconscious. Harpinder Singh and his uncle took him to Kundan Lal Hospital, Mandi Ahmedgarh, where he succumbed to the injuries. On the next day, Harpinder Singh got recorded his statement before ASI Devinder Singh, on the basis of which, the FIR was registered and investigation was conducted. On completion of investigation, challan was presented.

After presentation of challan, charges under Sections 279 and 304-A IPC were framed against the accused-petitioner, to which, he pleaded not guilty and claimed trial.

In order to prove its case against the accused-petitioner, the prosecution examined as many as five witnesses. Thereafter, the evidence of prosecution was closed.

Statement of accused-petitioners under Section 313 Cr.P.C. was recorded, wherein entire incriminating evidence was put to him. However, he denied the same and pleaded false implication. In defence, he examined Jagtar Singh (DW-1) and Jaspal Singh (DW-2).

The trial Court, after going through the entire evidence led by the prosecution, convicted and sentenced the accused-petitioner in the aforesaid terms. Appeal against the said judgment was dismissed by the Additional Sessions Judge, Fast Track Court, Ludhiana, vide judgment dated 13.12.2005.

Both the Courts below have convicted the accused-petitioner on the ground that his name was found mentioned in the statement (Ex.PA), which was got recorded by Harpinder Singh-complainant on 16.04.1999 before Investigating Officer Devinder Singh. Harpinder Singh (PW-1) deposed that at the time of accident, present accused-petitioner was driving the tractor, which hit the scooter of his father. He had further deposed that he was known to the accused-petitioner prior to the accident, as he was resident of adjoining village. Even though as per the deposition of Gurdev Singh (PW-2), they had reached at the spot after the occurrence and body of Avtar Singh-deceased was lying on the road, but he had not denied his earlier statement made before the police. The identify of the accused-petitioner was duly proved by the prosecution. The plea taken by the defence was that there was delay of 15 hours in lodging the FIR. The Courts below have held that the occurrence took place at 8.00 P.M. and thereafter, the injured was taken to Kundan Lal Hospital, Mandi Ahmedgarh, where he died at about 12.00 P.M. Thereafter, information was sent to the Police by the doctor, whereupon statements of the complainant was recorded.

Accordingly, the delay has been explained satisfactorily and it was not fatal to the case of the prosecution.

Even though, Gurdev Singh (PW-2) did not support the prosecution version, but the identify of the accused was duly proved by the complainant, who was travelling on the scooter being driven by Gurdev Singh. In his earlier statement, Gurdev Singh had admitted that he was present at the spot, where the dead body of deceased-Avtar Singh was lying. Therefore, the accident in itself is not in dispute. Neither the accused-petitioner led any evidence to show that he was not driving the tractor in question on the day of occurrence nor he made any representation to the police to the effect that he has been falsely involved in this case.

After going through the impugned judgments, no illegality, much less irregularity, has been found therein warranting interference by this Court. Accordingly, the impugned judgments are upheld and the present petition is dismissed. However, a lenient view can be taken on the quantum of sentence.

The incident in the present case took place on 15.04.1999 and the petitioner has been facing the agony of a protracted criminal trial for the last more than 15 years. The sentence of the petitioner was suspended by this Court vide order dated 03.02.2006 and thereafter, he has not misused the concession of bail. As per custody certificate, the petitioner has undergone 1 month and 28 days in custody and he is not facing any other criminal trial. Keeping in view the above circumstances, the sentence of imprisonment awarded to the petitioner is reduced to the period already undergone. However, the amount of fine is enhanced from Rs.2000/- to Rs.50,000/-, which shall be paid as compensation to the legal heirs of deceased-Avtar

Singh. The petitioner is directed to deposit the enhanced amount of fine before the trial Court.

With the above modification, the petition stands disposed of.

16.01.2015

ajp

(RITU BAHRI)
JUDGE