

367 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1095 of 2007.
Decided on : 12.10.2015.

Nachhattar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. S.S. Tiwana, Advocate for
Mr. G.S. Singhpuria, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

JITENDRA CHAUHAN, J.

This revision petition is filed against the judgment dated 11.6.2007, passed by the Sessions Judge, Mansa and the judgment of conviction and the order of sentence dated 25.4.2006, passed by the Judicial Magistrate Ist Class, Mansa vide which the accused was convicted and sentenced as under:-

Offence	Sentence	Fine	In default
279 IPC	RI for 6 months	Rs.500/-	RI for 1 month
304-A IPC	RI for 2 years	Rs.1000/-	RI for 2 months
337 IPC	RI for 6 months	Rs.500/-	--

All the substantive sentences were ordered to run concurrently.

Brief facts of case of the prosecution as noticed in the judgment passed by the Sessions Judge are as under:-

“The prosecution story, in brief, is that on 11.10.1997 Gurdeep Singh son of Partap Singh the Seeri of Kulwant Singh had gone from village Gadar Patti, Boha to Dariarpur village, for fixing the marriage proposal of his daughter. While returning, the jeep in which Gurdeep Singh was travelling, met with an accident at about 7.00 P.M on the Boha-Budhlada road near the house of Kulwant Singh PW. That accident occurred with the bus of M/s Ladi Bus Service, registered, Mansa. Kulwant Singh reached the spot and found the jeep No. RJ-18-0484 involved in the accident with the bus and Gurdeep Singh had died at the spot and the other occupants of the jeep, namely, Bawa Singh, Birja Singh and Gurjant Singh, the owner of the jeep were injured. In the meanwhile, Darshan Singh son of Ajmer Singh reached there in his jeep No. PB-05A/7695, injured were being taken in that jeep for immediate medical aid towards Civil Hospital, Budhlada, and Kulwant Singh was accompanied by Janak Singh son of Labh

Singh, Iqbal Singh son of Ajmer Singh, who had also reached the spot. It was at about 8.00 P.M., when the jeep reached near the turning of bus-stand of Rampur Mander that an Eicher tractor was seen coming from the opposite side at a fast speed and without the head-lights. The tractor was driven by Nachattar Singh accused-appellant and it banged with the jeep. Darshan Singh, the owner of the jeep died at the spot and Gurjant Singh, Birja Singh, Bawa Singh, Raj Janak Singh, Iqbal Singh and Surjit Singh suffered serious injuries. Kala Singh son of Gajjan Singh resident of Rampur Mander and Chowdika Chuhar Singh were left near the dead body and the other injured were sent to the Civil Hospital, Budhlada, for treatment by arranging another vehicle from the village. The Police Party headed by Harbans Singh SI met Kulwant Singh in the way and recorded his statement Ex.PU, which was sent to the Police Station, vide endorsement Ex.PU/2 and FIR Ex.PU/3 was registered in the Police Station. Birja Singh, Bawa Singh and Gurjant Singh also succumbed to the injuries on their person. Post-mortem examination on the dead bodies was conducted in the Civil Hospital,

Budhlada. The medico-legal examination of Surjit Singh, Raj Janak Singh and Iqbal Singh PWs was also conducted. The statements of the injured were recorded after obtaining opinion of the Doctor that they are fit to make the statements. The Police party visited the spot and took into possession the damaged vehicle i.e. Tractor and trolley vide memo Ex.PV and the jeep vide memo Ex.PW, attested by the witnesses. Some damaged parts of both the vehicles were also recovered from there for which memo Ex.PY was prepared. Photographer was called and photographs of the scene of occurrence Ex.P-1 to Ex.P-6 were taken and these were handed over to the Police along with the negatives vide memo Ex. PW-8/U. Rough site plan Ex.PW-8/B was also prepared by the Investigating Officer.”

On completion of investigation, challan/report under Section 173 Cr.P.C was presented before the Court against the accused.

Charges under Sections 304-A, 279 and 338 IPC were framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined

Kulwant Singh, PW-4 Raj Janak Singh, PW-5 Milkh Raj, PW-6 Iqbal Singh, PW-7 Surjit Singh and PW-8 SI Harbans Singh.

The statement of accused under Section 313 Cr.P.C was recorded. All the incriminating circumstances appearing in the prosecution evidence were put to the accused. The accused denied the same and pleaded false implication. He further stated that he was not the driver of the tractor as it was driven by someone else. The accident has taken place because of the rash and negligent act of the jeep driver also.

DW-1, Chuhar Singh, given up by the prosecution as won over, was examined in defence evidence.

After appraisal of the evidence, learned Judicial Magistrate Ist Class, convicted and sentenced the accused as narrated above.

Feeling dis-satisfied with the impugned judgment of conviction and the order of sentence, the accused preferred an appeal which was dismissed by the Sessions Judge, Mansa vide judgment dated 11.6.2007. However, the conviction of the accused under Section 338 IPC was altered to under Section 337 IPC.

Still feeling aggrieved with both the above judgments and the order, the present revision petition was filed, which was admitted on 9.7.2007. The sentence of the petitioner was suspended on 29.10.2007.

Learned counsel for the petitioner contends that the

identity of the accused in the instant case is not established. He further contends that the accident did not take place on account of rash and negligent driving of the accused. In this regard, he refers to the statement of PW-4, Raj Janak Singh, the alleged eye witness, who has admitted in his statement that the tractor was going on its right side before the accident took place. This witness has also stated that the jeep was going at a very high speed because the jeep driver and the occupants were in a great hurry to take the victims of the earlier accident to the hospital. Therefore, the accident took place due to negligence of the jeep driver.

On the other hand, the learned State counsel supports the judgments and order passed by the Courts below and prays for dismissal of the instant revision petition.

I have heard learned counsel for both the parties and have gone through the case file.

PW-4, Raj Janak Singh, the injured, has deposed that the accused was the driver of the tractor. In his cross-examination, the identity of the tractor driver was not challenged. This witness also suffered injuries in the accident. PW-6, Iqbal Singh has stated that the accused was driving the tractor. He has further stated that the accused was known to him. PW-7, Surjit Singh another injured testified that the accused was the driver of the tractor and this part of his testimony was not attacked in the cross-examination. It was further deposed by the

witnesses that Darshan Singh died on the spot and the remaining

injured namely Gurjant Singh, Birja Singh and Bawa Singh, who were seriously injured were taken to PHC Budhlada, where they were declared brought dead. All the eye witnesses made consistent statements with regard to the accident and the identity of the accused. So, it is unhesitatingly held that the prosecution has been able to establish the identity of the accused unerringly.

The other point urged by learned counsel for the petitioner that rashness and negligence cannot be assigned to the accused, carries no weight. PW-4, Raj Janak Singh has deposed that the tractor was being driven on the wrong side of the road when the accident took place. Similar is the statement of the other injured PW-6, Iqbal Singh. The version of the accused was of simple denial that he was not the driver of the offending vehicle, i.e. tractor and does not in any manner challenge the positive evidence on this important issue of his being rash and negligent. PW-7, Surjit Singh the other injured has also testified that the tractor was coming at a fast speed and was being driven in a rash manner and hit the jeep. PW-4, PW-6 and PW-7 were subjected to lengthy cross-examination, but their credibility could not be shaken. The site plan Ex. PW-8/B reflects that point 'B' pertaining to the jeep establishes that the jeep was on the proper side. The photograph Ex. P-3, also shows the exact location of both the vehicles showing that the jeep was on the left side of the road whereas the tractor had covered more than half of the road and was on the wrong side. The evidence led by the prosecution overwhelmingly establishes

that the driver of the tractor was driving the tractor at a fast speed and in a rash and negligent manner which resulted into the deaths of four persons. The sentence is also not on the higher side.

No other point has been urged.

In view of the observation made above, the present revision petition is dismissed. The impugned judgments and order are upheld. The accused is on bail. He be taken into custody to serve the remaining part of the sentence.

12.10.2015.
SN

(JITENDRA CHAUHAN)
JUDGE