

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR no. 1682 of 2007(O&M)
Decided on :08.07.2015

Baldev Singh

....Petitioner(s)

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr.Vikas Mohan Gupta, Advocate for the petitioner

Mr. P.J.S.Hundal, AAG, Punjab

MAHESH GROVER, J

The instant petition has been filed by the petitioner impugning the orders of conviction and sentence awarded by the learned Trial Court on 22.9.2015 and upheld by the learned Appellate Court vide its order dated 17.7.2007.

The facts would indicate an accident caused by the petitioner while he was driving bus no.PB-10-K-933 hitting the scooter driven by the deceased resulting in his death. The petitioner absconded from the spot.

Identity is not in question as the petitioner failed to lead any evidence to show that he was not driving the bus at the relevant time. The bus belonging to a private operator, the petitioner was at liberty to produce evidence to show that he was not driving the offending bus at the time of the accident which he did not. The other fact of his surrender and taking the bus on superdari would also indicate his involvement in the accident. In so far as establishing his negligence is concerned there is ample evidence in the shape of photographs.

Learned counsel for the petitioner has contended that there was

no negligence on the part of the petitioner and that the bus itself does not indicate any damage to it which would suggest that no collision took place. He has further stated that possibly the bus was in the process of over taking the scooter or coming from behind and thus grazed past the scooterist. Even if it is assumed to be correct, great deal of caution is expected from a driver of a heavy vehicle who is in the process of over taking the other vehicle and he cannot bring it so close so as to brush against the vehicle which is intended to be overtaken. Thus negligence is writ large as principle of res ipsa liquitor suggests. This being the only issue agitated, this Court is firmly of the view that no interference is warranted in the judgments recorded by the Courts below, particularly, in the exercise of the revisional jurisdiction which limits the Court's interference only if there is perversity in the impugned orders . Finding none, I do not find any reason to deviate from the findings recorded by the Courts below.

At this stage, learned counsel for the petitioner contends that the accident in question took place in the year 2000 and the conviction was upheld by the Appellate Court in the year 2007 after the finding recorded by the Trial Court in the year 2005. The petitioner has undergone imprisonment for a period of 4 months and 10 days out of the total substantive sentence of 2 years awarded to him and thus it is pleaded that it would not be in the interest of justice to send the petitioner behind bars at this stage.

On due consideration of the matter, I deem it appropriate to accept this prayer of the petitioner qua quantum of sentence. As many as 15 years have elapsed since the date of accident and the petitioner himself would be fairly advanced in years. It has been stated that he has abandoned

his job of a driver since 2005. Be that as it may, considering the fact that 15 years have elapsed since the date of accident and the petitioner having undergone imprisonment for a period of 4 months and 10 days out of the total substantive sentence of 2 years awarded to him and also noticing the fact that the petitioner by now must be fairly advanced in years, sentence of the petitioner is reduced to that of already undergone by him by enhancing the fine component to that of Rs.80,000/- which shall be deposited before the Trial Court within a period of four months from today for onward disbursal to the legal heirs of the deceased.

Disposed of.

July 08, 2015
rekha

(Mahesh Grover)
Judge