

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 2033 of 2007
Date of decision: 16.9.2015

Rojey Khan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Satish Chaudhary, Advocate
for the petitioner.

Mr. D.R.Singla, DAG, Haryana.

SABINA, J.

Petitioner had faced the trial qua commission of offence punishable under Section 279, 304-A of the Indian Penal Code, 1860 ('IPC' for short) in FIR No. 227 dated 16.9.1999, registered at Police Station Nuh. Trial Court vide judgment/order dated 8.5.2006/11.5.2006 ordered the conviction and sentence of the petitioner under Section 279, 304-A IPC. Aggrieved against the said judgment/order of his conviction and sentence, petitioner preferred an appeal and the same was dismissed by the Appellate Court vide order dated 6.10.2007. Hence, the present petition by the petitioner.

Prosecution story, in brief, is that on 15.9.1999, complainant along with his nephew Daulti were travelling in jeep bearing No. HR-29-1344, driven by the petitioner. Petitioner was driving the jeep at a fast speed and the complainant and the other occupants had told the petitioner to drive the jeep slowly. When the

jeep driven by the petitioner reached near Yuvraj brick-kiln at about 7.30 P.M., a jeep bearing No. HR-27-2770 came from the opposite direction at a fast speed and in a rash and negligent manner and rubbed/struck against the jeep in which the complainant was travelling. As a result of this, Daulti fell on the road and suffered injuries and later succumbed to his injuries.

In order to prove its case, prosecution led its evidence. Complainant and the other eye witnesses deposed as per the prosecution story.

Learned counsel for the petitioner has submitted that as per the prosecution case itself, the accident had been caused by the driver of jeep No. HR-27-2770. However, challan had been presented against the petitioner. Although, the complainant had stated that the petitioner was driving the jeep at a fast speed but so far as the allegations qua rash and negligent driving are concerned, the same had been attributed to the driver of jeep bearing No. HR-27-2770.

Learned State counsel, on the other hand, has opposed the petition.

In the present case, the case of the prosecution was that the complainant and the deceased were travelling in the jeep driven by the petitioner. It is also the case of the prosecution that petitioner was driving the jeep at a fast speed. However, it is further the case of the prosecution that jeep bearing No. HR-27-2770 came from opposite direction and the driver of the said jeep was driving the jeep in a rash and negligent manner and at a fast speed and struck/rubbed against the jeep in which the complainant was travelling. However, in the present case, challan

was presented against the petitioner. The Courts below had erred in ordering the conviction of the petitioner qua commission of offence punishable under Section 279, 304-A IPC. In fact, the accident could not be said to have been caused due to rash and negligent driving of the petitioner while driving jeep No. HR-29-1344. Rather the accident could be said to have taken place on account of rash and negligent driving of the driver of jeep No. HR-27-2770.

Accordingly, this petition is allowed. Impugned judgments/order of the Courts below, are set aside. Consequently, petitioner is ordered to be acquitted of the charges framed against him.

**(SABINA)
JUDGE**

September 16, 2015

Gurpreet