

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

**Crl. Revision No.36 of 2006
Date of decision : 15.12.2015**

Ram Partap

.....Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. B.S. Bedi, Advocate with
Ms. Swati Batra, Advocate (Amicus Curiae)
for the petitioner.

Mr. K.S. Aulakh, AAG, Punjab.

ANITA CHAUDHRY, J.

The petitioner was tried and convicted by the Additional Chief Judicial Magistrate, Ropar under Section 279 & 304-A IPC. He was sentenced to undergo imprisonment for a period of one year along with fine of Rs.2,000/- for commission of offence under Section 304-A IPC. He was further sentenced to undergo imprisonment for a period of three months for commission of offence under Section 279 IPC.

I would first refer to the facts that can render assistance on the merit or otherwise of the contentions asserted before this

Court. The prosecution case is that an accident took place on 06.05.2000 at 6:30 AM. Jagbir was going on a scooter and he was going towards Morinda City. When the scooter reached near the T-point, Jagbir slowed down at the T-point and then stopped as he was to cross the T-point on the left side of the road. In the meantime, a Maruti Car came at a high speed from Chandigarh side. The car overtook a Tata Sumo and came on the wrong side of that road and struck against the scooter. Jagbir fell down and sustained head injury. Jagbir was taken to the hospital by his neighbour Satnam Singh. Satnam had come to the T-point Kurali to make a phone call that morning. Kuldip, his other neighbour was also present at the spot. The allegations were that the car driver stopped his car near the police station and then came to Mawi Hospital where he disclosed his name as Ram Partap son of Sital Parshad, resident of Ferozepur Cantonment. Intimation regarding the accident was sent to Gurdeep Singh, a relative of the injured who also reached the hospital. They made arrangements and took Jagbir to PGI, Chandigarh. In the meantime, Ram Partap fled from the hospital. The complainant got Jagbir admitted in the PGI and left the hospital for his personal work. Ruqa had been sent to the police station. H.C. Didar Singh went to the hospital but the injured was unfit to make the statement. ASI Piara Singh went to PGI on 07.05.2000 but again the injured was declared unfit to make the statement. On 08.05.2000, H.C. Didar Singh went to PGI again and the patient was again

declared unfit. However, he met and recorded the statement of Satnam Singh and the accused was arrested on 17.05.2000. Jagbir succumbed to the injuries on 20.08.2000 and Section 304-A IPC was added.

Investigations were completed and the accused was put to trial. Charge was framed. The prosecution examined seven witnesses. The photographs were tendered in evidence.

In the statement under Section 313 Cr.P.C., the accused pleaded innocence but did not lead any evidence in defence.

The trial Court thoroughly examined the evidence and finding the statements to be convincing, held the accused guilty and sentenced him to the punishment mentioned here-in-before.

Aggrieved with the verdict an appeal was preferred by the accused which too did not find favour and was dismissed by the Additional Sessions Judge, Rupnagar on 23.12.2005.

I have heard Mr. B.S. Bedi, Advocate and Ms. Swati Batra , Advocate (Amicus Curiae) appearing on behalf of the petitioner and State Counsel.

The submission made on behalf of the petitioner was that there was a delay in lodging the FIR and the identity of the petitioner had not been proved and the accused had been arrested 11 days after the accident and it was a case of false implication. It was contended that there were discrepancies in the statement of the witnesses. It was urged that the police station is close by and the

police did not go to Mawi Hospital and the police should have checked their record. It was urged that according to Kuldip PW-1, the police had caught the driver on the same day but the records shows that he was arrested after 11 days. Continuing with the arguments, and referring to a Division Bench Judgment rendered in a case under the Motor Vehicle Act, the submission was that the person who approaches the main highway is supposed to be careful and there was no duty cast upon the driver who was on the main road. Reference was made to ***Oriental Fire and General Insurance Company Ltd. And others Vs. Smt. Manjit Kaur and others Vol.LXXXII-1980, PLR 520.***

Supporting the judgment, the State counsel had urged that both the Courts below have examined the evidence minutely and had found the petitioner to be rash and negligent. It was urged that the petitioner was overtaking a vehicle and came on the extreme right side of the road & hit the scooterist who was on his correct side. It was urged that merely because the driver was not caught on the same day, would not be a ground to reject the testimony of the witnesses nor the prosecution case be rejected as the statement of the complainant was not recorded on the same day. It was urged that Head Constable Didar Singh had been visiting the hospital but the injured was not fit to make any statement and after shifting the injured to PGI, Satnam had left for his work and could not expected to be by his bed side.

I have gone through the evidence and find myself unable to agree with the contentions raised on behalf of the petitioner. The accident had taken place on 06.05.2000. A Daily Diary report was entered at 2:40 PM on 08.05.2000. The injured was initially taken to Mawi Hospital from where the neighbours who are witnesses to the accident shifted him to PGI, Chandigarh. The witnesses have disclosed that the driver of the offending vehicle was present when the injured was admitted in the hospital. They had also stated that the police had arrested him on that day. There is a discrepancy with respect to the date of arrest. The police could not have formally arrested the driver as by then, they were not able to get the statement of the injured. The witnesses had no motive to falsely implicate the driver. They have categorically vouched against the driver giving the name, the parentage and about his residence. It had been stated that the particulars were disclosed when they were in the hospital. FIR records that the driver escaped from the hospital along with his car thereafter. The police recorded the statement of the complainant only on the third visit made to the hospital. The manner in which the accident had occurred comes out clearly in the statement of Kuldip Singh PW-1. The scooterist had reached the T-point and he stopped his scooter at the T point Chandigarh-Morinda Road waiting to cross the road. He was on the left side of the road as it is indicated also in the site plan. The Maruti Car driven by the petitioner came from Chandigarh side and while overtaking a Tata

Sumo, it came to the extreme right side of that road and hit the scooterist. The authority cited by them is clearly not applicable. There the facts were entirely different. The driver had not come on the extreme right side of the road. In the present case, the T-junction was on the right side of the road on which the petitioner was coming. There was traffic on the road and after waiting to see that all was clear, the scooterist went ahead but the car struck him which was being driven on the extreme right side of the Chandigarh-Morinda Road. The scooterist fell down and his head struck the road and led to his death. It is not a case of false implication either. No complaint was made by the car driver. The witnesses had no motive to falsely implicate him. The eye-witnesses were natural and probable witnesses. Their statements inspire confidence. There is no reason to disbelieve the version. The witnesses have given a graphic account of incident. The medical evidence supports and corroborates the version given by them.

There is a concurrent finding of guilt recorded by both the Courts below. There is no reason to take a different view. The conviction is maintained. The trial Court had already taken a lenient view and does not call for interference by this Court in revisional jurisdiction. The revision petition is dismissed.

The petitioner was granted bail after he had undergone only few days of custody. He would surrender before CJM, Ropar within a fortnight, failing which CJM, Ropar would issue warrants of

arrest and commit the accused to custody to enable him to undergo the sentence awarded by the trial Court.

A copy of this order be sent to CJM, Ropar.

Records be remitted.

15.12.2015

sunil

**(ANITA CHAUDHRY)
JUDGE**