

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.965 of 2009
Date of decision : 11.12.2015

Baldev Singh Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Gurmeet Singh , Advocate
amicus curiae for the petitioner.

Mr.APS Gill, AAG, Punjab.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This revision has been filed against concurrent conviction of the petitioner under Sections 304-A and 279 IPC.. He was sentenced as under:-

Sr. No.	Offence Under Section	Sentence awarded	In default
1.	304-A IPC	R.I. for 2 years with fine of Rs.5000/-.	RI for three months
2.	279 IPC	R.I.for 3 months with fine of Rs.500/-.	RI for 15 days

Both the sentences were ordered to run concurrently.

As per the allegations of the prosecution the deceased were crossing the road when the bus being driven by the petitioner

negligently and at a high speed came and struck against them killing both of them. Learned amicus curiae has argued that two of the passengers who were travelling in the bus(DW1 and DW2) have unequivocally deposed that the bus was going at a normal speed but the deceased suddenly came out of the side to cross the road and that is how the accident occurred. It is his contention that no reason has been given by the courts below to discard the uninterested testimony of both the witnesses. As per him the learned Appellate Court has based his decision only on the fact that the two witnesses have stated that the bus was being driven negligently and at a high speed while the trial Court has based his decision only on the fact that the bus struck against the scooter very hard. It is his contention that if a person suddenly comes on the road without giving any time to the heavy vehicle to even apply the brakes the impact would necessarily be hard but that by itself cannot give rise to the conclusion that the heavy vehicle was being driven negligently.

I find considerable weight in the arguments of learned amicus. The unequivocal testimony of two uninterested witnesses(DW1 and DW2) definitely casts a doubt on the story of the prosecution and the benefit thereof has to be granted to the petitioner .

In the circumstances the petition is allowed. The judgment of conviction and order of sentence are set aside.

This Court wants to place on record its appreciation of learned amicus curiae.

(AJAY TEWARI)
JUDGE

December 11 , 2015
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