

In the High Court of Punjab and Haryana at Chandigarh

CRR No.1253 of 2015 (O&M)
Date of decision: 28.09.2015

Gurnam Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Sahil Khunger, Advocate for the petitioner.

SABINA, J.

Petitioner had faced trial in FIR No. 78 dated 4.7.2009 under Sections 279, 304-A , 337, 338 of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Mamdot. Trial Court, vide judgment dated 3.1.2014, ordered the conviction and sentence of the petitioner qua commission of offence punishable under Sections 304-A,279,337,338 IPC. The said judgment/order of conviction and sentence of the petitioner were upheld in appeal by the appellate Court vide order dated 17.3.2015. Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that the petitioner has been falsely involved in this case. In fact, the tractor trolley in question was recovered from the *Havali* of the petitioner.

Prosecution story, in brief, is that on 4.7.2009, at about 7.30 p.m., complainant was returning after paying obeisance in the tomb of Peer Jand Sahib. When he reached near the grain market of village Rao Ke Hithar, a tractor trolley driven by the petitioner was coming at a fast speed. Apprehending danger, complainant stopped on the *katcha portion* of the road. From the side of the village Rao Ke Hithar, Balwinder Singh, Surjit Singh and Chhinderpal Singh came on a motorcycle driven by Balwinder Singh. On seeing the tractor, the driver parked the motorcycle on the *katcha portion* of the road. Petitioner, however, struck his vehicle against the motorcycle of Balwinder Singh. As a result of this, Balwinder Singh and Surjit Singh died at the spot and Chhinderpal Singh suffered injuries.

Complainant, while appearing in the witness box, has deposed as per the contents of the FIR.

Injured-Chhinderpal Singh appeared in the witness box as PW7 and deposed that on 4.7.2009, he along with Balwinder Singh and Surjit Singh were going towards Baba Jand Peer Sahib on a motorcycle bearing No. PB05-H-4029 driven by Balwinder Singh. At about 7.30 p.m., when they reached the grain market of village Rao Ke Hithar, a tractor trolley driven by the petitioner came from the opposite direction. When Balwinder Singh noticed that the tractor trolley was being driven in a rash and negligent manner, he parked his motorcycle on the *footpath*. However, petitioner struck his tractor trolley against their motorcycle. As a result of this, Balwinder Singh and Surjit Singh died at the spot, whereas, he suffered injuries.

Thus, the injured eye witness had duly supported the

prosecution case.

So far as the argument raised by the learned counsel for the petitioner that the tractor trolley in question was taken in possession from the *Havali* of the petitioner is concerned, the same is without any force. As per PW3 Sub Inspector Jagdish Lal, tractor trolley in question was taken in possession from the spot.

Thus, the prosecution had been successful in proving its case. Two persons had lost their lives on account of rash and negligent driving of the petitioner, whereas, one person had suffered injuries. The Courts below had, thus, rightly ordered the conviction and sentence of the petitioner under Sections 279, 304-A, 337, 338 IPC. No ground for interference is made out.

Dismissed.

**(Sabina)
Judge**

September 28, 2015

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