

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.2259 of 2015 (O&M)****Date of Decision: October 19, 2015**

Bhim Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Abhilaksh Grover, Advocate
for the petitioner.

Mr.B.S.Bhullar, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision petition has been filed by the petitioner Bhim Singh against State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 04.04.2014 passed by learned Judicial Magistrate Ist Class, Sangrur, vide which he was convicted and sentenced to undergo rigorous imprisonment for a period of six months under Section 279 IPC and to further undergo rigorous imprisonment for a period of two years and to pay fine of ₹1000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of 15 days under Section 304-A IPC and also challenging the judgment dated 11.03.2015 passed by learned Addl. Sessions Judge, Sangrur, vide which appeal filed by

petitioner was dismissed. However, the charge under Section 279 IPC being superfluous was withdrawn.

The brief facts of the case are that one ruqa was received from the Doctor by ASI Gurjit Singh on 24.09.2009 regarding admission of Deepinder Singh. He visited the hospital and recorded the statement of Deepinder Singh, who mainly deposed that on 23.09.2009, he and his friend Bharam Taur Singh were returning from Patiala in his car. Bharam Taur Singh was driving the car and he was sitting on the side seat. When they reached near petrol pump of Bahadurpur at about 6.00 P.M., one truck bearing registration No.HR-38M-0197 came at a high speed in negligent manner without blowing any horn and hit their car. Bharam Taur Singh died at the spot. He further stated that people gathered there and he was hospitalized and dead body of Bharam Taur Singh was sent to the dead house. It is alleged that the accident occurred due to negligent and rash driving of Bhim Singh.

After completion of investigation, challan was presented against the accused-petitioner and he was charged under Sections 279 and 304-A IPC, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Dr.Pritpal Singh, SMO, PW-2 Deepinder Singh, PW-3 HC Avtar Singh, PW-4 Retired SI Gurjit Singh and PW-5 ASI Hamir Singh.

The accused was examined under Section 313 Cr.P.C. He denied the allegations of prosecution and pleaded himself as innocent.

After hearing the arguments and after appreciating the evidence, learned JMJC, Sangrur convicted and sentenced the accused vide impugned judgment and conviction and order of sentence dated 04.04.2014. Aggrieved from the above-said judgment and order, an appeal was filed by the accused-petitioner and learned Addl. Sessions Judge, Sangrur dismissed the appeal vide judgment dated 11.03.2015 by holding that charge under Section 279 IPC being superfluous stands withdrawn and the accused remained convicted under Section 304-A IPC.

Aggrieved from the above-said judgments and order, present revision has been filed.

Notice of motion was issued and learned State counsel appeared and contested the petition.

Lower Court record was also requisitioned.

At the time of arguments, learned counsel for the petitioner argued that findings given by both the Courts below are perverse against the evidence and the Courts below have misread the material evidence. He further argued that revision petitioner has nowhere admitted the occurrence or the fact that he was driving the truck at that time. He next argued that the identity of the accused-petitioner has not been established beyond reasonable doubt.

On the other hand, learned State counsel argued that judgments and order passed by the Courts below are correct and as per evidence. Both the Courts have appreciated the evidence correctly and in right perspective.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that the identity of the accused has not been proved in the present case by the prosecution beyond reasonable doubt. In the cross-examination, PW-2 Deepinder Singh complainant-eye witness has stated that he does not know Bhim Singh personally and he does not know about his village also, which means that before the occurrence, the complainant was not knowing the accused nor there is any other evidence on record to show that complainant was knowing the accused-petitioner prior to the accident. It is admitted case of the parties that accused-petitioner fled away from the spot. There is nothing in the chief-examination of the complainant-eye witness that he had seen the accused at the time of accident. In cross-examination, he has stated that he came to know the name of the accused as Bhim Singh on his enquiry. The occurrence took place on 23.09.2014 and the FIR has been registered on the next date i.e. 24.09.2014. The mentioning of name of the accused in the statement of the complainant is of no consequence to prove the identity of the accused-petitioner because in the cross-examination, the complainant himself has stated that he came to know the name of the accused at police station, which means that name of the accused has been mentioned in the FIR at the instance of the police.

Further, from the perusal of the cross-examination of PW-2 Deepinder Singh, in no way, it can be held that accused has admitted

the occurrence. Rather, suggestion has been given to him that he has deposed falsely regarding the high speed and negligent driving of truck in his statement. Another suggestion was given that Bhim Singh never caused any accident with his vehicle. From these suggestions, in no way, it can be held that accused-petitioner has admitted the accident. No identification parade has taken place in the present case. There is no other evidence on record to prove that accused was driving the truck at that time. It was for the prosecution to prove its case beyond any reasonable doubt but the prosecution has failed to prove the identity of the accused beyond reasonable doubt. The benefit of doubt is to go to the accused. The impugned judgments and order passed by the Courts below and the findings that accused has indirectly and impliedly admitted the accident etc. are perverse, against the evidence and the same are set aside.

Therefore, the present revision petition is accepted. Petitioner Bhim Singh, who is in custody, be released forthwith, if his custody is not required in connection with any other case.

October 19, 2015
Vgulati

(INDERJIT SINGH)
JUDGE