

In the High Court of Punjab and Haryana at Chandigarh

CRR No.323 of 2015 (O&M)
Date of decision: 29.01.2015

Mohammad Shokat

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Fateh Saini, Advocate for the petitioner.

SABINA, J.

Petitioner had faced trial in FIR No.152 dated 23.11.2010 registered at Police Station Mukerian under Sections 279,304-A of the Indian Penal Code, 1860 ('IPC' for short). Trial Court vide judgment/order dated 11.12.2013 ordered the conviction and sentence of the petitioner qua commission of offence punishable under Sections 279. 304-A IPC. In appeal, filed by the petitioner against the said judgment/order, the conviction of the petitioner, as ordered by the trial Court, was upheld vide order dated 15.11.2014. However, the sentence qua imprisonment was reduced from two years to one year under Section 304-A IPC. Hence, the present petition by the petitioner.

I have heard the learned counsel for the petitioner and

have gone through the record available on the file carefully.

Prosecution story, in brief, is that on 23.11.2010 complainant along with Dharminder Singh was travelling on motorcycle bearing registration No. PB-21-D-3304 towards village Khanpur. The motorcycle was being driven by Dharminder Singh and complainant was sitting on the pillion seat. When they reached near a Dhaba, truck in question came from Dasuya side at a high speed. The truck reached parallel to the motorcycle driven by Dharminder Singh and turned towards the motorcycle. As a result of this the left side of the truck struck against the motorcycle and on this account, both the motorcycle riders fell down. Dharminder Singh died at the spot on account of the injuries suffered by him. The driver of the truck got down from the vehicle and after disclosing his name, he fled away from the spot after leaving the truck at the spot.

Complainant, while appearing in the witness box as PW1, had deposed as per the contents of the FIR. Complainant had no ill-will or enmity against the petitioner to have falsely involved him in this case.

There is no force in the argument raised by the learned counsel for the petitioner to the effect that the accident had taken place due to rash and negligent driving of the deceased. Learned counsel for the petitioner has submitted that, in fact, the deceased had come on the main road from the link road without waiting for the traffic moving on the main road. It has been noticed by the trial Court that as per the site plan qua the place of occurrence Exhibit PD, no link road was depicted at the place of occurrence. In fact, as

per the site plan, the road where the occurrence had taken place is a four lane road with a divider in-between. Thus, the accident had taken place on a one way road. It is further noticed by the trial Court that as per the site plan, the complainant and his brother had come on the main road from the link road leading to their village, but at the time of occurrence, they were already on the main road and the truck had collided with their motorcycle from behind. Hence, no negligence could be attributed to the deceased-Dharminder Singh at the time of occurrence. There is nothing on record to suggest that the observations made by the trial Court are against the record or on account of misreading of evidence.

As per the prosecution case, after the accident, petitioner had met the complainant and had disclosed his name and, thereafter, had fled away from the spot. The truck driven by the petitioner was recovered from the spot. Both the Courts below, after going through the evidence on record, have, thus, rightly ordered the conviction and sentence of the petitioner qua commission of offence punishable under Sections 279. 304-A IPC. No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

January 29, 2015
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