

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.348 of 2015 (O&M)
Date of decision: February 09, 2015

Amar Phool

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjeev Sharma, Advocate
 for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this revision petition under Section 397 Cr.P.C. against State of Punjab respondent challenging the judgment dated 14.11.2014 passed by learned Addl. Sessions Judge, S.A.S. Nagar, Mohali vide which appeal against the judgment of conviction and order of sentence dated 13.08.2013 passed by learned Judicial Magistrate Ist Class, Dera Bassi, has been dismissed.

As per the facts of the case, Amar Phool was challaned in the FIR No.103 dated 26.06.2007 under Sections 279 and 304-A IPC registered at Police Station Lalru.

The brief facts of the case are that Mohan Lal got recorded his statement, in which he stated that he and his nephew Chaman Lal went to Jawala Stone Crusher on their motorcycle for taking fare of two Taralas. When they were coming back to Ambala after taking rent

and when Chaman Lal crossed the turn from Handesra road to Himanupur towards their side, then one three-wheeler came from the side of Basoli in a rash and negligent manner and ran over the chest of Chaman Lal and fell into the fields. This occurrence took place at about 4.00 P.M. On asking, the driver of three wheeler disclosed his name as Amar Phool. The accused-petitioner was charged under Sections 279 and 304-A IPC. Prosecution examined PW-1 Mohan Lal, PW-2 Mohit Dhiman, PW-3 Head Constable Mohan Singh, PW-4 Dr.Ashwani Kumar, PW-5 Rakesh Kumar, PW-6 Gurdev Singh and PW-7 Manjit Singh photographer. After closure of prosecution evidence, statement of accused-petitioner was recorded under Section 313 Cr.P.C. and he did not examine any witness in defence.

At the time of arguments, learned counsel for the petitioner argued that petitioner has been falsely implicated in the present case. The identity of the accused-petitioner has not been established and presence of eye witness is doubtful.

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

From the record, I find that learned JMIC, Dera Bassi vide judgment of conviction and order of sentence dated 13.08.2013, discussed the evidence produced on the record in right perspective. No illegality has been committed by the Court below while convicting and sentencing the present petitioner. No material evidence has been left to be considered by the Court below. Nothing has been pointed out that any material evidence has been misread by the Court. The

falling of three-wheeler in the fields itself shows rash and negligent driving, which proves the version of eye witness. There is nothing on the record to show that as to why the witnesses are deposing falsely against the petitioner. There is also nothing on the record as to how the petitioner is innocent. The fact that three-wheeler fell in the fields also shows that eye witness have the opportunity to see the petitioner there and have asked his name etc.

The mere fact that the petitioner was not arrested on the spot, is no ground which may create doubt in the prosecution version. The injured is to be taken to the hospital. Therefore, accused ran away from the spot. There are concurrent findings of both the Courts below regarding conviction of the present petitioner.

Keeping in view the facts and circumstances of the present case, I also do not find any ground to reduce the sentence of the petitioner. The petitioner has been sentenced to undergo rigorous imprisonment for a period of four months under Section 279 IPC and one year imprisonment under Section 304-A IPC along with fine.

In view of the above discussion, I find that the judgments and order passed by the Courts below are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the preset petition, the same is dismissed.

February 09, 2015
Vgulati

(INDERJIT SINGH)
JUDGE