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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3492-2015 [O&M]
Date of Decision : Sept. 17th , 2015

Mubin Khan Petitioner

Versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Mr. Abhimanyu Singh, Advocate,
for the petitioner.

SHEKHER DHAWAN, J.

Present revision petition is against the judgment of conviction dated 5.2.2015 and order of sentence dated 7.2.2015 passed by Judicial Magistrate Ist Class, Ferozepur Jhirka whereby the revisionist was convicted and sentenced as under:-

Under Section 279 of the Indian Penal Code, 1860.	To undergo Simple Imprisonment for the period of six months and to pay a fine of Rs.100/-. In default of payment of fine, the convict was further ordered to undergo simple imprisonment of one day.
Under Section 304-A of the Indian Penal Code, 1860.	To undergo Simple Imprisonment for the period of one year and to pay a fine of Rs.500/-. In default of payment of fine, the convict was further ordered to undergo simple imprisonment of one month.

2. The appeal filed by the revisionist was dismissed by Sessions Judge, Mewat vide judgment dated 4.9.2015.
3. Relevant facts of the case, that on 18.6.2011, complainant

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Sahun got recorded his statement Ex. PW-4/A that at about 5.30 AM, he was going for defecation and when he reached near village pond, his father Sahabuddin alias Sahabu was going on a bicycle, a dumper bearing No.HR-38N-1719, which was being driven in a rash and negligent manner hit against his father from back side. Resultantly, his father sustained several injuries. Driver of the dumper left the dumper at some distance and fled away from the spot. Sahabuddin alias Sahabu died on the spot. Police completed the investigation proceedings and challan was presented in the Court.

4. Learned trial Judge completed the trial, including framing of charge against the accused, recording of evidence and examining the accused under Section 313 Cr.P.C., and after considering the prosecution evidence and defence evidence held the present revisionist guilty and convicted and sentenced him thereunder. Appeal preferred by the revisionist was dismissed by learned Sessions Judge vide judgment dated 4.9.2015 and as such the present revision petition before this Court.

5. Learned counsel for the revisionist urged that both the Courts below have not appreciated the evidence in its correct perspective. There was absolutely no evidence showing the death of Sahabuddin alias Sahabu in motor vehicle accident as the doctor, who had conducted post mortem examination was not examined. More so, no identification parade was got conducted during investigation and identification of the revisionist for the first time before the trial Court is meaningless.

6. Having considered the facts, material and evidence available on the file, this Court is of the view that both the Courts below have already

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appreciated that prosecution has been able to examine Sahun as PW-4, who is the complainant and eye-witness to the alleged occurrence. He had identified the accused on the spot and thereafter at the trial stage. His version is duly supported and corroborated by the testimony of PW-5 Nasru and PW-6 – Hamid. That way, the prosecution has been able to prove that the accident had taken place because of rash and negligent driving of the revisionist. Learned trial Court has already dealt with this aspect regarding identity of the accused while discussing the fact that test identification parade is not relevant in such cases where eye-witness had ample time and opportunity to identify the accused on the spot. The Hon`ble Supreme Court in **Ravi Kapur Vs. State of Rajasthan 2012**[4] **R.C.R. [Criminal] 245** has clearly held that the Court identification itself is a good identification in the eyes of law where the eye-witnesses identify the accused in the Court.

7. As regards to plea taken by learned counsel for the revisionist that death has not been proved in this case, it has come in the statement of Sahun, complainant and eye-witness that death of his father, Sahabuddin alias Sahabu had taken place because of rash and negligent driving of present petitioner. The entire investigation proceedings were completed and the photographer had taken photographs which are available on the file. Learned trial Magistrate has already dealt with the point that non-examination of doctor who conducted post-mortem examination in such like cases where eye-witnesses have given minute details of the occurrence, is irrelevant and rightly placed reliance on **Jagtar Singh Vs. State of Punjab 2010** [2] RCR 1 [P&H].

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8. In view of the above, no ground is made out for interference in the well reasoned judgments passed by the Courts below. The Revision Petition lacks merits and is dismissed *in limine*.

(SHEKHER DHAWAN)
JUDGE

Sept. 17th , 2015
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