

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Criminal Revision No. 3541 of 2015
Date of Decision:- 19.10.2015**

Ramesh Chand @ Meshi

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

SHEKHER DHAWAN, J.

Present revision petition against judgment dated 07.07.2015, passed by learned first Appellate Court at Pathankot whereby the appeal against judgment dated 01.04.2013 passed by Chief Judicial Magistrate, Pathankot was dismissed.

2. Relevant facts of the case that revisionist was facing trial for the commission of offence under Sections 279, 304-A, 337 and 427 IPC on the allegation that on 03.06.2009 at about 6.00 P.M., he was driving truck bearing No. HP-38-A-8715 in a rash and negligent manner and while doing so, he caused accident, which resulted into death of Renu Bala and Robin Singh and caused hurt to Jodh Singh and also damaged to the property of Jodh Singh. He was arrested. Investigation proceedings were completed and challan was presented in the Court.

3. During trial, charge was framed against the accused. Statements of prosecution witnesses were recorded, accused was examined under

Section 313 Cr.P.C. and after considering the prosecution and defence version, learned trial Magistrate held the revisionist guilty for the commission of offence under Sections 279, 304-A, 337 and 427 IPC and sentenced as under, vide judgment of conviction and order of sentenced dated 01.04.2013: -

<i>Name of accused</i>	<i>Under Section</i>	<i>Sentence</i>
Ramesh Chand @ Meshi	279 IPC	Sentenced to undergo Rigorous Imprisonment for a period of six months and to pay a fine of Rs.100/-/. In default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 30 days
	304-A IPC	Sentenced to undergo Rigorous Imprisonment for a period of two years and to pay a fine of Rs.200/-/. In default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 30 days
	337 IPC	Sentenced to undergo Rigorous Imprisonment for a period of six months and to pay a fine of Rs.100/-/. In default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 30 days
	427 IPC	Sentenced to undergo Rigorous Imprisonment for a period of one year and to pay a fine of Rs.100/-/. In default of payment of fine, he will further undergo Rigorous Imprisonment for a period of 30 days

4. Revisionist preferred appeal before the Court of Sessions but remained unsuccessful.
5. Learned counsel for the revisionist mainly submitted that revisionist was not apprehended on the spot and no test identification parade was carried out. That way, identification of the accused itself is in dispute. Prosecution has not been able to prove the guilt of the accused on

the point of rash and negligent driving as well. The statements of prosecution witnesses on that point are quite contradictory but the Courts below completely ignored this fact while recording the judgment of conviction and while deciding the appeal. Learned Courts below also completely ignored the fact that revisionist is not a previous convict. So, he should have been released on probation. On this point, reliance was placed upon judgment from Hon'ble Supreme Court in case **Karamjit Singh Vs. State of Punjab, 2009(4) R.C.R. (Criminal) 227**, where Hon'ble Supreme Court took identical view.

6. Having considered the submissions made by learned counsel for the revisionist, this Court is of the considered view that revisionist caused motor vehicular accident while driving the truck No.HP-38-A-8715 in a rash and negligent manner and in that process caused death of Renu Bala and Robin Singh and also caused hurt to Jodh Singh. During trial, Mann Singh appeared as PW-2, who had deposed that on the fateful day i.e. 03.06.2009, he was going to his village and his brother Jodh Singh was with his wife Renu Bala and son Robin Singh at a distance of 20 yards away from him and they were going on scooter bearing No.PB-58-A-3017. When they reached near BS Filling Station, truck No.HP-38-A-8715 came from the side of Dinanagar. The driver of the said truck was driving it at a very high speed in a rash and negligent manner without blowing horn and signal struck against the scooter of Jodh Singh, resultantly Jodh Singh fell on the ground and his sister-in-law Renu Bala and son Robin Singh died on the spot and scooter was badly damaged. His version was duly supported and corroborated by testimony of PW-3 Jodh Singh/injured. In the case in

hand, the rash and negligent driving of accused resulted into death of two innocent persons. That way, the petitioner cannot take the plea that there was no 'Mensrea' on the part of revisionist. Hence, he was driving the truck in a rash and negligent manner on a public place, his act was rash and negligent as well as dangerous to the public at large and in that process he had taken away two human precious lives. Statement of Jodh Singh and his presence on the spot cannot be disputed as he himself is an injured. PW-2 Mann Singh as well as PW-3 Jodh Singh duly identified the accused person on the spot and thereafter in the Court and as such there was no need of test identification parade. Both the Courts below have already appreciated the evidence available on file. The ocular testimony of PW-2 Mann Singh and PW-3 Jodh Singh well supported and corroborated by medical evidence and also finds support from investigation proceedings, having been carried out by police. Defence plea is mere plea of denial, which does not find any support and corroboration and same has been rightly negated by the Courts below.

7. Courts below have taken the most reasonable view on the point of sentence as well and decided not to release the petitioner on probation, as revisionist had committed offence of grave nature in the given circumstances. The said findings recorded by learned trial magistrate and duly affirmed by first appellate Court, do not call for any interference by way of present revision petition.

8. Resultantly, the present revision petition is without any merit stands dismissed.

October 19, 2015
naresh.k

(**SHEKHER DHAWAN**)
JUDGE