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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3796-2015 [O&M]
Date of Decision : October 8th, 2015

Jai Kishan Petitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Mr.Ajay Pal Singh, Advocate,
for the petitioner.

SHEKHER DHAWAN, J.

Present revision petition is against the judgment of conviction and order of sentence dated 5.3.2014 passed by Chief Judicial Magistrate, Rupnagar, whereby the revisionist was convicted and sentenced as under:-

Under Section 279 of the Indian Penal Code, 1860.	To undergo Rigorous Imprisonment for the period of six months.
Under Section 338 IPC	To undergo Rigorous Imprisonment for the period of one year and to pay a fine of Rs.1,000/-. In default of payment of fine, to further undergo R.I. for one month.
Under Section 304-A IPC	To undergo Rigorous Imprisonment for the period of two years and to pay a fine of Rs.5,000/-. In default of payment of fine, to further undergo R.I. for one month.

2. The appeal filed by the revisionist was dismissed by learned Sessions Judge, Rupnagar vide judgment dated 3.8.2015.

3. Relevant facts of the case, On 2.7.2006, Daler Singh son of

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Bansi Lal reported to the police that on 1.7.2006 at about 7.00 PM, he alongwith his relative namely Madan Singh boarded Haryana Roadways, Faridabad bus from Ballabgarh, Faridabad bearing registration No. HR-38L-7817 for their home. He informed that the driver of the bus was driving it at a high speed in rash and negligent manner. He and other passengers travelling the bus asked the driver to drive the bus at a slow speed, but he did not listen to them and rather rebuked them to sit quietly. At about 4.40 AM, the driver of the bus struck the bus in the truck-trailer from its back side while driving the bus in a rash and negligent manner. Resultantly, his relative, Madan Singh, was travelling with him in the said bus, was trapped in the bus baddy and the informant with the help of co-passengers and other travelers got him released with difficulty. His left leg upto knee was amputated. The complainant himself received injuries on his left leg and chest. Similarly, other passengers who were travelling in the said bus also sustained injuries. The driver of the bus was apprehended and tried.

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 3.8.2015 and as such the present revision petition before this Court.

5. Learned counsel for the revisionist mainly submitted that the accident had not taken place due to rash and negligent driving of the petitioner because, it took place during night time. The truck-trailer was

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parked in the middle of the road as is evident from the photographs which were taken at the spot. In fact, the accident had not taken place due to rash and negligent driving of the petitioner, but it was due to rash and negligent act of the driver of Truck-Trailer, who had parked his vehicle in the middle of the main road. However, both the Courts below have not appreciated this fact while recording judgment of conviction and order of sentence and while deciding the appeal of the petitioner. As such, the present revision be accepted and the judgment of conviction and order of sentence as well as judgment recorded by the first Appellate Court be set-aside.

6. Having considered the submissions made by learned counsel for the petitioner, in the present case learned Magistrate had recorded the judgment of conviction on the basis of statement of prosecution witnesses including Daler Singh-complainant. Learned trial Judge rightly placed reliance on the testimony of PW-1, PW-11 [Complainant], PW-8 and PW-9. The accident had resulted in the death of Dharampal and Madan Singh. The ocular testimony is duly supported by the statements of other police officials who had conducted the investigation formalities including Mechanic, Photographer and Investigating Officer.

7. The defence version is not probable that the accident had taken place because of rash and negligent act on the part of truck-trailer driver. Though, in this case, the truck-trailer was parked on the road, it was the duty of the present revisionist to drive the vehicle with greater care and caution especially when he was driving a bus during night time. The truck-trailer is such a vehicle which can be observed by a driver from a long

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distance and if any driver fails to observe such like vehicles parked on the road, then he does not deserve to be a driver especially of a commercial vehicle who is to deal with precious human lives of so many persons using such public transport. Both the Courts below have already appreciated the evidence of eye-witnesses and remaining evidence available on the file and held the revisionist guilty for commission of offence punishable under Sections 279, 337 and 304-A IPC and awarded sentence thereunder.

8. In view of the above, there is no illegality much less perversity calling for interference by this Court in the the well reasoned judgments passed by the Courts below. The Revision Petition lacks merits and is dismissed *in limine*.

(SHEKHER DHAWAN)
JUDGE

October 8th, 2015
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