

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-4236-2014 (O&M)

Date of decision: 30.06.2015

Balwant Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. PKS Phoolka, Advocate for the petitioner.

Mr. Gurveer Sidhu, AAG, Punjab.

R.P. NAGRATH, J.

By filing the instant revision, the petitioner has challenged the concurrent findings of conviction recorded by both the Courts below. The trial Court convicted the petitioner under Sections 304-A and 279 of the Indian Penal Code (IPC). The learned Appellate Court observed and rightly so that offence under Section 279 IPC was covered within the main offence under Section 304-A IPC and, therefore, separate conviction under Section 279 IPC was not required. The sentence awarded to the petitioner to undergo rigorous imprisonment for a period of 1 year under Section 304-A IPC was also affirmed in appeal.

2. When the matter was listed on 23.12.2014, notice of motion

to the State was issued only qua the quantum of sentence. PW-5 SI Sikander Singh was posted at Police Station Nehianwala on 29.03.2009. On that day, he received a message from Civil Hospital, Bathinda that dead body of one Balwinder Singh was lying in the mortuary. PW-5 went to Civil Hospital, Bathinda along with other police officials. PW-1 Jaswinder Singh-complainant real brother of the deceased was present in the hospital and PW-5 recorded his statement Ex. PW-1/A about the incident.

3. The facts of the case, briefly stated, are that on 29.03.2009, Balwinder Singh (deceased) was going to Bathinda on Scooter No. PB-03-J-3202 make Bajaj Chetak at about 6.00 a.m. The complainant and Amandeep Singh @ Raju were following him on motorcycle. When they reached near Mata Diwati Devi School that bus No. PB-03-L-9916 of Pepsu Road Transport Corporation (PRTC), Faridkot Depot, was seen coming in a zig-zag manner. On seeing the bus being run in such a way, the deceased brought his scooter on one side of the road but the bus driver had run over the scooter and dragged the victim and his scooter to a distance of about 4-5 karams. At that time, the complainant and Amandeep Singh @ Raju were at a distance of 10-15 karams from the victim on their motorcycle. After the incident, the bus driver stopped his vehicle at some distance. While the complainant and Amandeep Singh @ Raju were looking after the victim who was lying unconscious, the bus driver, namely; the petitioner came there and disclosed his name. The victim was taken by them in the same bus of the petitioner to Civil Hospital, Bathinda where the victim was declared brought dead. The

driver then left the hospital by leaving the bus there.

4. I have heard learned counsel for the petitioner, learned State counsel and also perused the judgments of the Courts below as well as the trial court record.

5. Both PW-1 Jaswinder Singh-complainant and PW-2 Amandeep Singh @ Raju have supported the prosecution story about the manner in which the incident took place due to rash and negligent driving of the bus by the petitioner.

6. PW-5 stated that after recording the statement of complainant and moving application for autopsy on the dead body of deceased, he took into possession the offending vehicle. It has appeared in cross-examination of PW-5 that the offending bus was taken into possession from the premises of Civil Hospital, Bathinda. This fact was also recorded in the recovery memo of the vehicle Ex. PW-5/E.

7. There was some confusion about registration number of the offending bus. In the statement of complainant Ex. PW-1/A recorded by PW-5, the bus number is recorded as PB-03-L-9916 but the vehicle recovered from Civil Hospital, Bathinda by the Investigating Officer bears No. PB-04-L-9916 of which the mechanical test was also conducted. The mechanical test was conducted by PW-4 Abhey Singh, Head Constable, the Mechanic on 29.03.2009 itself who proved his test report Ex. PW-4/A. The mechanic found a dent on the right cover of the headlight and bumper. No evidence in defence was led to suggest that there was also a bus No. PB-03-L-9916 belonging to PRTC which was also plying on the same route.

8. The site plan Ex. PW-5/F depicts the location of scooter of the victim and the spot where bus was stopped after the accident. The victim was coming from the side of village Chand Bhan to which he belongs towards Bathinda i.e. Mandi Goniana and the location of scooter which was taken into possession from the spot shows that scooter was on the extreme left side just at the berm of metalled road while the bus was coming from the opposite direction. The above fact supported by statements of eye-witnesses would be enough to establish that the bus was being driven by the petitioner in a rash and negligent manner on the public highway. It was suggested to PW-1 that the accident was caused by some unknown vehicle. It was further suggested to PW-1 that the petitioner took the victim to hospital in the bus on humanitarian grounds. There was no force in the above plea as the eye-witnesses are not shown to have any ulterior motive to falsely implicate the petitioner.

9. As per custody certificate, the petitioner by now has undergone more than 6 months of imprisonment, out of the actual sentence of one year awarded to him. It is submitted that there is previous criminal record of the petitioner who is working as a driver with PRTC.

10. The facts of the present case would reveal gross negligence of the petitioner in driving the heavy vehicle which resulted in the loss of an innocent life. However, it is quite obvious that on conviction of petitioner, he will have to loose his job of roadways. The occurrence took place about more than 6 years ago. By taking these factors into consideration, I find that period of sentence should be suitably reduced.

The learned trial Court has not imposed the fine while awarding sentence and I am of the view that some amount should also be imposed while reducing the sentence.

11. In view of the aforesaid discussion, the instant revision is dismissed on merits with modification in the quantum of sentence that the period of sentence under Section 304-A IPC is reduced from 1 year to 8 months of rigorous imprisonment and fine of ₹ 5000/- is imposed upon the petitioner, in default whereof, he would further undergo rigorous imprisonment for 2 months.

June 30, 2015

rishu

**(R.P. NAGRATH)
JUDGE**