

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.4280 of 2015 (O&M)****Date of Decision: November 17, 2015**

Baldev Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

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

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Baldev Singh against State of Punjab under Section 401 Cr.P.C., challenging the impugned judgment of conviction and order of sentence dated 10.06.2014 passed by learned Addl. Chief Judicial Magistrate, Bathinda, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three months and to pay a fine of ₹500/- and in default of payment to undergo rigorous imprisonment for a period of one month under Section 279 IPC and to further undergo rigorous imprisonment for a period of one year and to pay a fine of ₹1000/- and in default of payment of fine to undergo rigorous imprisonment for a period of one month under Section 304-A IPC and also challenging the judgment dated 12.10.2015 passed by learned Sessions Judge, Bathinda, vide

which appeal filed by petitioner was dismissed.

At the time of arguments, learned counsel for the petitioner argued that identification of the accused-petitioner has not been proved beyond reasonable doubt. Mangal Singh's presence on the spot is doubtful. He further argued that Rajinder Singh died due to the injuries received due to fall from the motorcycle as the doctor in cross-examination has also stated that those injuries are possible from the fall from a vehicle.

After hearing learned counsel for the petitioner and after going through the record, I find that as per prosecution version, police official reached Civil Hospital, Bathinda on receiving information on 26.07.2011 where Mangal Singh got recorded his statement that he is a Lecturer in college and on 25.07.2011, he and Rajinder Singh were going from Bathinda to their village Bhagwargarh. Rajinder Singh was going on his motorcycle and he (complainant) was going on his motorcycle. At about 10.00 P.M., when they reached near Delhi railway line, Dabwali, then a milk tanker bearing registration No.RJ-02G-4057 came from back side. The driver of the tanker was driving the tanker at a high speed and in a negligent manner and thereafter, without blowing horn, he struck the tanker in the motorcycle of complainant's nephew Rajinder Singh. Thereafter, Rajinder Singh fell down on the road and tanker driver stopped the tanker and after leaving the tanker, he ran away from the spot. Thereafter, ambulance of Sahara Club came at the spot and dead body was taken to Civil Hospital, Bathinda. Later on, the complainant came to know regarding

name of the driver.

From the record, first of all, I find that this is a revision petition and in the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal. This Court is to see whether the findings given by the Courts below are perverse i.e. against the evidence or the Courts below have misread some material evidence or have not considered the material evidence. There is nothing on the record to show that findings given by the Courts below are against the law. Nothing has also been pointed out as to how the findings given by the Courts below are perverse. Nothing has been pointed as to which material evidence has been misread and which material evidence has not been considered by the Courts below. The mere fact that the doctor, to the suggestion given by the defence counsel, has stated that the injuries are also possible by fall from the vehicle, will not prove itself that the deceased has received the injuries by fall from the motorcycle and no accident took place. This cross-examination or suggestion of the defence counsel is to be read along with other evidence. Mangal Singh, is the eye witness to the occurrence. There is no evidence on the record from where the presence of Mangal Singh can be doubted. The arguments that Mangal Singh was not present at the spot, has no merit.

Again, it is the case of the prosecution that driver of the milk tanker, left the tanker on the spot, which was taken into police possession. The version of the eye witness is that the tanker was stopped and then the driver fled away. Therefore, when the eye

witness has identified the driver, then it is a substantial evidence. In no way, it can be held that the identity of the driver has not been proved beyond doubt. The mere fact that Jan Sahara ambulance had brought the dead body to the Civil Hospital, Bathinda, will not prove that Mangal Singh was not present at the spot. No person from Jan Sahara has been got examined by the accused in defence to prove this fact.

From the above discussion, I find that the findings given by the Courts below, in no way, can be held as perverse nor it can be held that Courts below have not appreciated the material evidence in right perspective. There is nothing on the record to show that findings given by the Courts below are against the law and evidence.

Learned counsel for the petitioner also prayed for reduction of sentence and to release the petitioner on probation.

Keeping in view the facts and circumstances of the present case that accused has not made any effort to admit the injured in the hospital etc. and rather ran away from the spot, I find that no ground is made out for reduction of sentence and to release the petitioner on probation.

Learned counsel for the petitioner cited judgments passed by this Court in ***Sudhir Kumar vs. State of Punjab, 2004(1) RCR (Criminal) 795, Malkiat Singh vs. State of Punjab, 2008 (3) RCR (Criminal) 474, Nachhattar Singh vs. State of Punjab, 1986(1) RCR (Criminal) 489 and Pawan Kumar vs. State of Haryana, 1998 (4) RCR (Criminal) 873.*** Learned counsel for the petitioner also

placed reliance upon the judgment passed by the Hon'ble Delhi High Court in ***Sishan Singh vs. State of Delhi, 1997 (67) DLT 364*** and judgment passed by the Hon'ble Orissa High Court in ***Raghunath Pradhan vs. State of Orissa, 2006 CriLJ 3211***. I have gone through all the above-cited judgments and the same having distinguished facts, will not apply in the present case.

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

November 17, 2015
Vgulati

(INDERJIT SINGH)
JUDGE