

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.4346 of 2015 (O&M)****Date of Decision: December 11, 2015**

Jarnail Singh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGHPresent: Mr.R.N.Lohan, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision petition has been filed by the petitioner Jarnail Singh against State of Haryana under Section 401 Cr.P.C., challenging the impugned judgment of conviction dated 05.06.2015 and order of sentence dated 10.06.2015 passed by learned Sub Divisional Judicial Magistrate, Kalka, vide which the petitioner was convicted and sentenced to undergo imprisonment for a period of three months and to pay a fine of ₹1000/- and in default of payment of fine, to undergo simple imprisonment for a period of twenty days under Section 279 IPC and to undergo imprisonment for a period of three months and to pay a fine of ₹500/- and in default of payment of fine, to undergo simple imprisonment for a period of twenty days under Section 337 IPC and further to undergo imprisonment for a period of two years and to pay a fine of ₹5000/-

and in default of payment of fine, to undergo simple imprisonment for a period of one month under Section 304-A IPC and also challenging the judgment dated 14.09.2015 passed by learned Sessions Judge, Panchkula, vide which appeal filed by petitioner was dismissed.

Notice of motion.

On asking of the Court, Mr.Himmat Singh, AAG, Haryana accepts notice on behalf of the respondent-State and contests the petition.

Lower Court record is also available.

The brief facts of the case are that complainant Akhtar Khan stated that on 11.02.2011 at about 2.10 P.M., he along with one Habbibula and Maksood was coming towards village Jholuwal on a motorcycle driven by him whereas Maksood and Habbibula were the pillion riders. When they reached near village Madhawala crossing, one tanker bearing registration No.HR-25F-0141 came from back side and hit his motorcycle and they all fell down. Maksood and Habbibula received serious injuries and were got admitted in the Government Hospital, from where Maksood was referred to PGI, Chandigarh, where he was declared dead.

At the time of arguments, learned counsel for the revision petitioner argued that rash and negligent driving of the tanker by the petitioner has not been proved. The occurrence took place on 11.02.2011 whereas the FIR was registered on the next day. He further pointed out the discrepancies in the statements of the witnesses that motorcycle has been taken into police possession on

the same day whereas as per the Investigating Officer, it has been taken in police possession on 16.12.2011 and further the witness has stated that his statement was recorded on the same day.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, firstly I find that there are concurrent findings of fact given by both the Courts below. This is a revision petition and in the revision petition, this Court is not to re-appreciate the evidence like a Court of an appeal. This Court is only to see whether the findings given by the Courts below are against the evidence and law or perverse or some material evidence has not been considered. Nothing has been pointed out as to how the findings given by both Courts below are illegal. Even the perusal of the statements of the witnesses shows that they have duly proved the rash and negligent driving of the present petitioner while driving the tanker in question on that day. Again, the delay in recording the FIR on the next day, in no way, can be held as fatal to the prosecution case. It is again finding of fact to be decided by the Courts below as to whether the delay has been explained or not. Otherwise also, firstly, the injured are to be taken and got treated in the hospital than recording the FIR. The fact that two persons were seriously injured and had been got admitted in the hospital and one out of them has died, explains the delay. The discrepancies pointed out by learned counsel for the petitioner at the time of argument, in no way, can be held as material discrepancy, which may go to the root of the case.

Therefore, from the above discussion, I find that the findings given by the Court below are as per evidence. In no way, the reasonings can be held as perverse nor there is anything to show that the findings are against the law. The Courts below have rightly convicted the present petitioner. Therefore, the judgments of conviction passed by the Courts below are correct, as per law and are upheld.

At the time of argument, learned counsel for the petitioner prayed that lenient view may be taken and sentence imposed upon the petitioner be reduced.

Keeping in view the facts and circumstances of the present case and in view of the fact the petitioner is suffering from long protracted criminal trial and is first offender and further the fact that the petitioner is only bread earner of the family, the sentence of the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of one and half years under Section 304-A IPC instead of two years. However, the remaining sentences and sentence of fine, will remain the same. All the sentences are ordered to run concurrently.

With the above-said modification in the sentence, the present revision petition stands dismissed.

December 11, 2015
Vgulati

(INDERJIT SINGH)
JUDGE