

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.527 of 2015 (O&M)

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Date of decision:18.2.2015

Harjit Rai

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Suresh Kumar Aneja, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned judgment dated 18.12.2014 passed by learned Additional Sessions Judge, Fazilka, dismissing the appeal filed by the petitioner against the impugned judgment of conviction and the order of sentence dated 29.7.2013 passed by the learned Chief Judicial Magistrate, Fazilka.

It is mainly stated in the grounds of revision that the impugned judgments and orders passed by the Courts below are against facts, contrary to law and as such the same deserve to be set aside. The Courts below have side-tracked the oral as well as documentary evidence while passing the impugned judgments and orders, which are bereft of reasoning and hence liable to be set aside.

As per the record, the learned Chief Judicial Magistrate, Fazilka, vide judgment dated 29.7.2013 convicted Harjit Rai in case FIR No.158 dated 11.11.2010 registered for the offences under Sections 279 and 304-A IPC at Police Station City, Fazilka and sentenced to undergo rigorous imprisonment for six months for the offence under Section 279 IPC. He was also sentenced to undergo rigorous imprisonment for one year and to pay a fine of ₹500/- and in default of payment of fine to further undergo rigorous imprisonment for one month for the offence under Section 304-A IPC. Both these sentences have been ordered to run concurrently.

The appeal filed by the accused Harjit Rai has also been dismissed by the learned Additional sessions Judge vide judgment dated 18.12.2014.

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

The brief facts of the prosecution case are that the FIR in the present case has been got registered on the statement of Manjit Singh, who stated that on 11.11.2010 at about 10.30 a.m., he along with his friend Gurmit Singh was going towards Malout on the motorcycle Hero Honda bearing registration No.PB-05FT-1861. Gurmit Singh was driving the motorcycle and he was sitting on the pillion seat. When they reached near Grain Market, Malout Road, Fazilka, then one tractor trolley came from Fazilka Malout side. They saved from it, then one truck trolly being driven by some unidentified person in rash and negligent manner, struck with their motorcycle and their motorcycle struck from the front tyre of the truck trolly

and they fell down. Gurmit Singh was crushed by the front tyre of the truck trolly and received injuries, who was shifted by him to Civil Hospital, Fazilka. The truck trolly driver ran away towards Malout side. The truck trolly driver looked backside after opening the window and he could not identify him, if brought before him. Gurmit Singh succumbed to the injuries in the hospital. The accused was arrested in this case on 1.12.2010. After necessary investigation, challan was presented against the accused in the Court.

To prove its case, the prosecution examined PW-1 Manjit Singh-complainant, PW-2 HC Arjun Singh, PW-3 HC Harkesh Kumar, PW-4 Subhash Chander-eye witness, PW-5 Dr. Ajay Narang, S.M.O., C.H.C., Khui Khera, PW-6 Pankaj Sharma, PW-7 ASI Puran Singh, Investigating Officer, PW-8 Varinder Khatri, LDC, DTO Office, Sri Ganganagar and closed its evidence.

At the close of prosecution evidence, the statement of accused under Section 313 Cr.P.C. was recorded, wherein he pleaded that he has been falsely implicated in the present case. Complainant PW-1 Manjit Singh, PW-4 Subhash Chander another eye witness, deposed as per the prosecution version and supported the prosecution case. PW-4 also stated that he chased the truck trolly on his motorcycle, but he escaped. He stated that he was known earlier truck trolly driver Harjit Rai. He is resident of Guru Nanak Nagar, Fazilka and he used to visit Mandi during the season for lifting grain etc.

Learned counsel for the petitioner argued that there is no

identification parade in this case and identity of the accused is doubtful. He also argued that there are some discrepancies in the statements of the witnesses. No independent witness has been examined and as stated Manjit Singh-complainant was sitting on the pillion seat, but he has not received any injury. Therefore, he argued that the findings of the Courts below are incorrect.

From the perusal of the record, I find that complainant Manjit Singh as well as PW-4 Subhash Chander eye witnesses have duly supported and corroborated the prosecution version, proved the rash and negligent driving of the accused-petitioner, who was driving the truck trolly. Both of them have identified the accused-petitioner. The evidence in the Court is substantial piece of evidence. Even PW-4 has stated that he was knowing the accused earlier as he used to come to Mandi to lift the grain etc. Otherwise also, these are the findings of fact given by the Courts below concurrently. There is nothing pointed out in the statements of the PWs, which may make their statements unreliable. There is also nothing pointed out as to why the PWs are deposing falsely. There is no enmity or motive alleged against the PWs.

Otherwise also, it is a revision petition and in the revision petition the Court is not to re-appreciate the evidence like the Court of appeal. The Court is to see whether the order passed by the learned Court below is illegal, perverse or some material evidence has not been discussed or the evidence has not been discussed in the right perspective. Learned counsel for the petitioner has not pointed out anything which material

evidence has not been considered and discussed in the right perspective or which material evidence has been misread by the Courts below. No illegality has been shown in the findings of the Courts below. There is nothing to show that these judgments are perverse. From the record, I find that both the judgments passed by the Courts below are correct and as per the law and have been given with sound reasoning, which do not require any interference from this Court and the same are upheld.

Therefore, from the above discussion, I do not find any merit in the present criminal revision petition and the same is dismissed.

February 18, 2015.

(Inderjit Singh)
Judge

hsp