

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. Nos.5595 and 5596 of 2015
and
Criminal Revision No.571 of 2015 (O&M)

.....

Date of decision:20.2.2015

Amarjit Singh

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Deepak Bhardwaj, Advocate, Legal Aid counsel for the
petitioner.

.....

Inderjit Singh, J.

Cr. Misc. No.5595 of 2015:

For the averments made in the criminal miscellaneous application, exemption from filing the certified copy of the judgment passed by the learned appellate Court and grounds of appeal and permission to place on record photocopies of the same along with the photo copy of the judgment passed by the learned trial Court is granted.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.5596 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay of 48 days in filing the revision petition is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Rev. No.571 of 2015 (O&M):

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned judgment dated 9.10.2014 passed by learned Additional Sessions Judge, Ludhiana, dismissing the appeal filed by the petitioner against the impugned judgment of conviction and the order of sentence dated 5.7.2012 passed by the learned Judicial Magistrate Ist Class, Khanna.

It is mainly stated in the grounds of revision that the impugned judgments and order 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 order, which are bereft of reasoning and hence liable to be set aside. The Courts below have not appreciated the fact that no test identification parade was conducted in the present case in order to prove the identity of the accused. The accused had not been arrested from the spot. It is further stated that the witnesses have not stated the manner of rash and negligent driving in their statements before the trial Court. Merely, use of the words rash and negligent manner in statements would not prove the fact that the accused was actually driving rashly or negligently.

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

At the time of arguments, learned counsel for the petitioner argued that in this case in the site plan tanker has not been shown with which the bus had collided. Learned counsel for the petitioner further

argued that PW Harjinder Singh in cross-examination stated that the tanker hit the bus. It is also stated that in the present case the Investigating Officer had not been examined.

First of all, this is a revision petition and in the revision petition this Court is not to re-appreciate the evidence like the Court of appeal. This 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 the judgments passed by the Courts below are perverse.

A perusal of the findings on record shows that the present petitioner was driving the bus and three persons, namely, Manveer Singh, Swaranjeet Kaur and Mohan Lal had died and Sukhdeep Singh, Harjinder Kaur, Charanjit Kaur, Sarojni, Sarabjit Kaur, Narinder Kaur, Prem Singh, Hardeep Kaur, Jagir Singh, Saroj, Sukhdarshan Singh had received injuries and some of the passengers, namely, Asha, Gurpreet Singh, Aatish Khan, Karamjit Kaur, Rajinder Kaur, Victor Lal received grievous injuries due to the rash and negligent driving of bus by the present petitioner.

In the present case, so many private persons were examined to prove the prosecution version including Harinder Singh, Balwant Singh, Darshan Singh, Asha Rani, Harjinder Kaur and Aatish Khan.

The learned trial Court has considered the oral statements of the witnesses while reaching to the conclusion. PW-9 Balwant Singh, as discussed in the judgment itself, had stated that the driver was driving the bus in zig-zag manner and he struck the bus into rear wheels of the tanker. Resultantly, the bus went out of control and overturned. In view of the evidence of the injured witnesses, who were even the passengers of the bus shows that the petitioner was driving the bus rashly and negligently. When the passengers of the bus are deposing that he was driving the bus rashly and negligently, there is no question of identification parade. Their statements in the Court are substantial piece of evidence and they had duly proved the identity of the accused/revision petitioner. Further, I find that in the judgments itself, the Courts below have discussed the law laid down by the Hon'ble Supreme Court regarding non-examination of the Investigating Officer, which is having no effect on the prosecution case. Otherwise also, when the oral statements of the PWs are duly supported by the medical evidence, the non-examination of the Investigating Officer, who was not an eye witness to the case, in any way, will not affect the merits of the case. The mere non-showing of tanker in the site plan also does not show that the evidence has been misread or no case is made out against the present revision petitioner.

At the time of arguments, learned counsel for the petitioner also argued that the accident occurred due to the rash and negligent driving of the tanker. The driver of the tanker had also been examined as a witness in this case. Even the accused had not taken this plea in his statement recorded

under Section 313 Cr.P.C. No defence witness had been examined by the accused/petitioner.

Therefore, from the record, I find that both the judgments passed by the Courts below are correct and as per the law and no illegality has been committed by the Courts below, which do not require any interference from this Court and the same are upheld.

Finding no merit in the present criminal revision petition, the same is dismissed.

February 20, 2015.

(Inderjit Singh)
Judge

hsp