

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR No. 742 of 2015(O&M)
Date of Decision: 30.07.2015

Jagdeep Singh

....Petitioner

Versus

State of Punjab

....Respondent

CRR No. 1209 of 2015
Date of Decision: 30.07.2015

Mandeep Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Ashutosh Hoshiarpuri, Advocate
for the petitioner (In CRR No.742 of 2015 (O&M))

Mr. Vijay Rana, Advocate
for the petitioner (In CRR No.1209 of 2015)

Mr. Ashish Sanghi, DAG, Punjab.

SNEH PRASHAR, J.(Oral)

This order shall dispose of CRR No.742 of 2015 and CRR No.1209 of 2015.

1. Both the criminal revisions were directed against the order dated 19.01.2015 passed by learned Additional Sessions Judge, Jalandhar whereby the charge under Section 304-II of the Indian Penal Code had been ordered to be framed against the present petitioners.

2. On 01.08.2014 at about 1:20 pm Arshu Arora, a small boy aged

four years, who was travelling in the Bus bearing No.PB-08-AE-9153 of Innocent Heart School, Jalandhar fell down from the bus and was run over. Chandan Arora, father of the boy lodged a complaint that the accident had taken place due to negligent, careless and rash driving of the Bus by its driver and conductor namely Jagdeep Singh and Mandeep Singh respectively. Due the sudden application of break by the driver, the door which was not properly closed got open and Arshu Arora fell down .

Initially on the complaint given by Chandan Arora a case under Section 279 and 304-A IPC was registered. After investigation on the basis of the final report-challan submitted, the petitioners were charge-sheeted for commission of offence under Section 304-II IPC by learned Additional Sessions Judge, Jalandhar

3. Heard the submissions made by Mr. Ashutosh Hoshiarpuri, Advocate representing the petitioner- Jagdeep Singh; Mr. Vijay Rana, Advocate representing the petitioner-Mandeep Singh and Mr. Ashish Sanghi, DAG, Punjab representing the State.

4. Learned counsel for the petitioner-Mandeep Singh argued that it was a case of vehicular accident and the first information report was registered under Section 279 and 304-A IPC against the driver of the Bus. Since the driver suddenly applied breaks, as was mentioned in the first information report, the door got open with a jerk and the boy fell down. The petitioner who was the conductor in the Bus had no role to play and was not at fault.

Learned counsel for petitioner-Jagdeep Singh argued that it was the duty of the conductor-Mandeep singh to bolt the door properly.

Petitioner-Jagdeep Singh was not responsible for management of the

children travelling in the bus as he being the driver had no control over them or the door of the bus.

5. There is absolutely no merit in the arguments of learned counsel for the petitioners. It was the duty of the driver to ensure that the door of the Bus had been closed properly before he put the bus in motion. The fact that he was driving the bus with the door not properly bolted was sufficient to prove negligence on his part. Similarly, the duty of the conductor in the Bus was to take care and manage the children as well as the door of the bus. The allegation is that on sudden application of break by the driver, the door of the Bus got open with the jerk and the child fell down. It means neither the door was properly closed/bolted nor the child was being taken care of. Prima-facie the facts/material putforth by the prosecution was sufficient to prove charge under Section 304-II of the Indian Penal Code against both the petitioners.

6. It is also apparent from the record that petitioner Jagdeep Singh was having a licence valid for driving light Transport vehicle only and was not competent to drive a Bus. That further contributed to the negligence he displayed.

7. Finding no illegality or perversity calling for intervention in the order of learned trial Court, both the petitions are dismissed.

July 30, 2015
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[SNEH PRASHAR]
JUDGE