

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

CRR No.75 of 2015 (O&M)

Date of Decision: January 12, 2015

Rajpal

.... Petitioner

vs.

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Dr. Deepa Singh, Advocate for
Mr. Vinod S. Bhardwaj, Advocate the petitioner.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

This revision has been filed against the judgment dated 17.12.2014 passed by learned Addl. Sessions Judge, Bhiwani, affirming the order dated 15.06.2012 passed by learned Judicial Magistrate 1st Class, Bhiwani, vide which the present revisionist was convicted under Sections 279, 337 and 304-A of the Indian Penal Code, 1870 (in short 'IPC') and sentenced to undergo simple imprisonment for six months and to pay a fine of ₹500/- under Section 279 IPC. He was also sentenced to undergo rigorous imprisonment for six months and to pay fine of ₹500/- under Section 337 IPC. He was also sentenced to undergo rigorous imprisonment for one year and to pay a fine of ₹1,000/- under Section 304-A IPC. It was further directed that in default of payment of fine, the revisionist shall further undergo simple imprisonment for two months.

The prosecution version is that on 06.06.2009, Sombir reported to the police that he along with his *bua* (father's sister) Chander Kalan and her son Harender were going in ALTO car bearing No.HR 99 DE(T) 2609 from village Kakroli to Bhiwani. The car was being driven by Harender. It was about 9.30/10.00 a.m. when they crossed village Juhi Kalan and reached near the village Golagarh, a white Scorpio bearing registration No.DL-4C-NB-1659 came from opposite side, which was being driven rashly and negligently and hit the ALTO car. As a result of the accident, Harender and Chander Kalan died at the spot. The complainant was sitting on other side and therefore, he was saved. The complainant called the villagers. The driver of the offending vehicle left the vehicle at the spot and ran away. Later on, the name of the driver of the Scorpio vehicle came to be known as Rajpal.

The trial court charge-sheeted the accused-revisionist under Sections 279, 337 and 304-A IPC.

In support of its case, the prosecution examined EHC as PW1, complainant Sombir as PW2, Gyan Singh, Mechanic as PW3, Sombir photographer as PW4, Prem Chand as PW5, Dr. Anil Chaudhary as PW6, Dr. Ved Kumar as PW7, ASI Jai Singh as PW8, Sudhir Kumar as PW9 and Narender as PW10.

When examined under Section 313 Cr.P.C., the accused-revisionist pleaded innocence.

After hearing the prosecution, learned counsel for the accused-revisionist and going through the evidence, the accused-

revisionist was convicted and sentenced by the learned trial court aforesaid.

Aggrieved with the said judgment, accused-revisionist preferred an appeal for his acquittal whereas Sombir, complainant also filed an appeal for enhancement of the sentence awarded to the accused-revisionist. Both the appeals were dismissed by the learned Addl. Sessions Judge, Bhiwani, vide single judgment dated 17.12.2014.

Learned counsel for the accused-revisionist has contended that in this case, no test identification parade has been held.

I am of the view that in this case, name of the complainant was identified at the spot and was mentioned in the FIR. The FIR was registered without unnecessary delay. After the accident, the vehicle of the accused-revisionist, which was involved in the accident, was left at the spot. The accused-revisionist had not explained as to how his vehicle was found at the spot after being involved in the accident. He did not say that his vehicle was borrowed by somebody. Since the offences are bailable, accused-revisionist cannot be confined by the police for the purpose of the test identification parade. Complainant Sombir had identified the accused-revisionist. The photographs of the place of the occurrence were taken and the mechanical examination of the vehicles was also done. Therefore, there is no ground to disbelieve the statement of complainant Sombir, which is supported by the investigation

conducted by the police. Therefore, I do not find any illegality and perversity in the impugned judgments passed by both the courts below.

Learned counsel for the accused-revisionist has further argued that a lenient view should be shown in the sentence awarded to the accused-revisionist. The accused-revisionist should be released either on the probation or the sentence should be reduced to the period already undergone by him.

I am of the view that due to rash and negligent driving of the accused-revisionist, two persons lost their lives. The trial court has already taken a lenient view by sentencing the accused-revisionist to undergo rigorous imprisonment for one year under Section 304-A IPC. The said order was upheld in appeal. No further leniency is possible in the given circumstances.

As such, the present revision petition is dismissed.

January 12, 2015
sarita

(KULDIP SINGH)
JUDGE