

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

Crl. Revision 2316 of 2006

Date of Decision : December 08, 2016

Balwinder Singh

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. S.S.Gurna, Advocate
for the petitioner.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

T.P.S. MANN, J.

The petitioner was tried for committing the offences punishable under Sections 279, 304-A and 338 IPC. Vide judgment and order dated 14.10.2003, learned Judicial Magistrate 1st Class, Ludhiana acquitted him of the charge under Section 338 IPC. However, he was convicted under Section 279 IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. He was also convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 5,000/- and in default of payment of fine, to further undergo

rigorous imprisonment for two months. Both the substantive sentences of imprisonment were ordered to run concurrently.

Aggrieved of his conviction and sentence, the petitioner filed an appeal. Vide judgment dated 19.10.2006, learned Additional Sessions Judge/Fast Track Court, Ludhiana while holding that the testimony of the prosecution witnesses was fully reliable and trustworthy, found no merit in the appeal and, accordingly, dismissed the same. Still not satisfied, the petitioner filed the present revision which was admitted on 27.2.2007. Simultaneously, he was granted the concession of bail.

According to the prosecution, on 31.8.1997 at about 6.30 a.m., complainant-Jagdev Singh alongwith Uttam Singh and Balbir Singh was present at Bus Stand of village Lasoori. In the meantime, Balwinder Singh, Bhinder Singh and Baljinder Singh reached there on a scooter which was being driven by Baljinder Singh. He slowed down the scooter on the correct side of the road but in the meantime, a bus bearing No. PB-11G-9927 being driven in a rash and negligent manner struck against the scooterists due to which Balwinder Singh died at the spot whereas Baljinder Singh and Bhinder Singh suffered injuries. They were shifted to the hospital where Bhinder Singh also died. Upon receiving intimation from the hospital, ASI Balbir Singh reached there and recorded the statement of complainant-Jagdev

Singh, on the basis of which FIR No. 137 dated 31.8.1997 under Sections 279, 427 and 304-A IPC was registered against the petitioner as he was the one, who was driving the offending bus in a rash and negligent manner at the relevant time.

At the trial of the case, the prosecution had examined PW1 Dr. Jagmohan Singh, PW2 ASI Balbir Singh, PW3 Manjit Singh, PW4 Dr. Achhar Singh, PW5 Jagdev Singh, PW6 Baljinder Singh, PW7 Uttam Singh, PW8 Surinder Kaur, Clerk, DTO Office, Patiala and PW9 Devinder Singh.

When examined under Section 313 Cr.P.C., the petitioner denied the prosecution allegations and claimed to be innocent. He stated that no such accident took place with the bus but he had been falsely implicated in this case as PW Baljinder Singh wanted to grab his property situated in village Holl. In his defence, he produced DW1 Balbir Singh and DW2 Kiranjit Kaur.

The trial of the case ended with the conviction and sentence of the petitioner, as mentioned above. He remained unsuccessful even in the appeal filed by him against his conviction and sentence.

Learned counsel for the petitioner has submitted that the accident in question had taken place due to the negligence of PW6 Baljinder Singh as he wanted to cross the road without seeing the oncoming traffic.

From the evidence available on the file, it stands established that at the relevant time, PW6 Baljinder Singh had not driven the scooter towards the other side of the road where Jagdev Singh and others were standing. Rather, the scooter had come to standstill when it was still short of the road on which the petitioner was driving the bus. By driving the bus in a rash and negligent manner, he struck the bus with the scooter and as a result thereof PW6 Baljinder Singh, Balwinder Singh and Bhinder Singh had received injuries. Out of them, Balwinder Singh and Bhinder Singh had succumbed to the injuries.

It is true that PW7 Uttam Singh deposed that the accident took place due to the negligence of the petitioner as well as of PW6 Baljinder Singh, who was driving the scooter but he did not rule out the fault of the petitioner in causing the accident.

In view of the above, no case is made out for any interference in the conviction of the petitioner for the offences under Sections 279 and 304-A IPC.

The petitioner is facing the agony of criminal prosecution for the last more than nineteen years. When he was heard by the learned trial Court on the quantum of sentence, it was his stand that his family members were dependent upon him. At the same time, it may be noticed that on account of the rash and negligent driving of the petitioner, two persons, namely,

Balwinder Singh and Bhinder Singh had died besides PW6 Baljinder Singh received injuries.

Taking into consideration the totality of the circumstances, this Court is of the view that the sentence of imprisonment of two years awarded to the petitioner for the offence under Section 304-A IPC is on the higher side. Ends of justice shall be best met, if the same is reduced to imprisonment for one and half years.

Resultantly, the conviction of the petitioner for the offences under Sections 279 and 304-A IPC is upheld. His sentence of imprisonment and fine alongwith its default clause for the offence under Section 279 IPC is maintained. However, the sentence of imprisonment for two years imposed upon him for the offence under Section 304-A IPC is reduced to rigorous imprisonment for one and a half years. The sentence of fine alongwith its default clause for the said offence is maintained. Both the substantive sentences of imprisonment shall run concurrently.

The revision is, accordingly, disposed of.

December 8, 2016
ajay-1

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No