

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

CRR NO.2321 of 2008 (O&M)

Date of decision : 12.07.2016

Ajit Singh

..Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashwani Gaur, Advocate and
Ms. Prerna Gaur, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana

JITENDRA CHAUHAN, J. (Oral)

The instant revision petition has been filed by the accused-petitioner, impugning the judgment dated 24.01.2008, passed by the Sub Divisional Judicial Magistrate, Narwana (for short, 'the trial Court'), whereby, the petitioner has been convicted in case FIR No.80 dated 22.03.1999, registered under Sections 279/337/338/304-B of the Indian Penal Code, registered at P.S. Uchana; and judgment dated 20.10.2008, passed by the learned Additional Sessions Judge-III, Jind (for short, 'the Appellate Court'), whereby, the appeal preferred by the petitioner against the judgment passed by the trial Court has been dismissed.

It is contended on behalf of the petitioner that investigation officer was not examined; the petitioner was not arrested from the spot; and he has been falsely implicated in the accident in question. Further, it is

submitted that the accident took place in the year 1999, therefore, a lenient view in sentencing the petitioner be taken. PW4-Raghbir, PW5-Bal Kishan and PW6-Mita @ Sunita, have not supported the case of the prosecution in any manner.

On the other hand, learned State counsel referring to the statements of PW1-Parveen, PW2-Champa Devi and PW3-Raghbir, states that the accused-petitioner was driving the jeep bearing registration No.HR-21A-3096 in a rash and negligent manner. Therefore, the Courts below have rightly passed the impugned judgments.

I have heard the learned counsel for the parties and perused the entire record on file.

In the instant case, the accused-petitioner was a driver of the offending vehicle (jeep), carrying about 8-9 passengers. While the jeep reached near village Bhongra, its driver lost control over the vehicle after seeing the vehicle, coming from the opposite side having red light atop and hit against a *kikker* tree. Though, the complainant-Gobind Ram could not recognize the accused-petitioner, but in his cross-examination, he admits his signatures on statement, Ex.PW13-A, wherein he has specifically stated that he along with other passengers were travelling in the offending vehicle and its driver lost balance and rammed the alleged vehicle into the *kikker* tree on its left side. Further, the factum of rashness and negligence on the part of the petitioner, is duly proved from the testimonies of PW1-Parveen, whose husband namely Anil Gupta died in the said accident, PW2-Champa Devi and PW3-Raghbir, who were the traveller of the offending vehicle and

suffered multiple injuries. The injuries suffered by the travellers are established by the MLRs issued by PW10-Dr. B. R. Kayat.

In a judgment delivered by Hon'ble the Apex Court in ***Venkatesan V. Rani (SC), 2013(6) R.A.J. 342***, it has been observed that the order of acquittal by trial Court cannot be set aside in revision if the view taken by the trial Court was not an impossible view. It has been held as under:-

“7. The above consideration would go to show that the revisional jurisdiction of the High Courts while examining an order of acquittal is extremely narrow and ought to be exercised only in cases where the Trial Court had committed a manifest error of law or procedure or had overlooked and ignored relevant and material evidence thereby causing miscarriage of justice. Re-appreciation of evidence is an exercise that the High Court must refrain from while examining an order of acquittal in the exercise of its revisional jurisdiction under the Code. Needless to say, if within the limited parameters, interference of the High Court is justified the only course of action that can be adopted is to order a re-trial after setting aside the acquittal. As the language of Section 401 of the Code makes it amply clear there is power vested in the High Court to convert a finding of acquittal into one of conviction.”

In the instant case, this Court does not find any ground to interfere with the impugned judgments, in exercise of its revisional jurisdiction, as no material evidence or any circumstance has come on

record to establish that there is any defect of procedure or improper acceptance or rejection of evidence by the Courts below. This Court feels that the impugned judgments have been passed after proper appreciation of evidence on record and application of judicial mind.

Consequently, the present revision petition fails and is hereby dismissed.

12.07.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**