

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

**CRR No.1940 of 2009 (O&M)
Date of Decision: May 26, 2016**

Jarnail Singh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Surinder Singh Walia, Advocate
for the petitioner.

Mr.Vikramjit Singh, Addl. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Jarnail Singh against State of Haryana, challenging the impugned judgment of conviction dated 05.10.2007 and order of sentence dated 06.10.2007 passed by learned Judicial Magistrate Ist Class, Karnal, vide which the petitioner was convicted and sentenced to pay fine of ₹1000/- and in default of payment of fine, to undergo simple imprisonment for a period of two months under Section 279 IPC and to further undergo rigorous imprisonment for a period of three months under Section 337 IPC and also to undergo rigorous imprisonment for a period of one year and to pay fine of ₹1000/- and in default of payment of fine, to undergo simple imprisonment for a period of two months under Section 304-A IPC and also challenging the judgment dated 06.07.2009 passed by learned Addl. Sessions Judge, Karnal, vide

which appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against petitioner Jarnail Singh in case FIR No.272 dated 07.07.1999 under Sections 279, 337 and 304-A IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Karnal, are as under:-

“2. The prosecution case is that on 06.07.1999, a police party comprised of HC Baldev Singh-744, C.Shamsher Singh-834 and led by ASI Hira Singh left police station, Butana for patrol duty at 11.00 PM in Government Jeep No.HR-05F-782. When the police party reached near Government quarters of police station, Butana at about 4.00 AM, they saw a three wheeler turned up side down on right side of G.T. Road. They went nearer and found a boy named Raj Kishan standing there. The boy identified himself as three wheeler driver and further told to the police party that owner Mahesh Kumar was trapped inside the three wheeler. ASI Hira Singh called the other policemen. The three wheeler number was HR-37-8014. The police stopped a smaller three wheeler No.HR-07P-204 and extricated the trapped man and made him to sit in the smaller three wheeler. Meanwhile a truck came at high speed from Nilokheri side and in the presence of ASI Hira Singh hit the smaller three wheeler causing it turned up side down. As a result of which HC Baldev Singh sustained injuries and driver Shamsher Singh was trapped inside the truck. The truck number was PB-10A-9657 which was being driven by a Sikh, aged about 25-40 years. Thereafter many passing vehicles stopped there and with the help of other drivers, C.Shamsher Singh was taken out from inside the truck. In between truck driver ran away. ASI Hira Singh rushed C.Shamsher Singh and HC Baldev Singh to CHC Nilokheri where doctors declared him brought dead. The accident was caused due to rash and negligent driving of truck No.PB-10A-9657 by the accused.

3. On the basis of statement given by ASI Hira Singh, a formal FIR Ex.PW2/A was registered at police station, Butana. ASI Ramesh Kumar conducted investigation of the case. He prepared site plan, recorded statements of witnesses under Section 161 Cr.P.C. collected MLR of the injured, PMR of the deceased, arrested the accused and after due formalities presented the final report in the Court.”

Learned JMIC, Karnal, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions

Judge, Karnal, vide judgment dated 06.07.2009.

Aggrieved from the above-said judgments, present revision petition has been filed.

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

From the record, I find that no illegality has been committed by the Courts below nor in any way, it can be held that the findings given by both the Courts below as perverse or against the evidence. The evidence has been appreciated in right perspective. Nothing has been pointed out as to which material evidence has not been considered or which material evidence has been misread by the Courts below.

PW-5 Hira Singh has deposed that he was on patrol duty along with Head Constable Baldev Singh and Constable Shamsher Singh. When they were returning to police station, near Government quarters, Police Station, Butana, they saw a three wheeler turned turtle and while they were extricating the trapped person from inside the three wheeler, the offending truck appeared from Nilokheri side and hit the smaller three wheeler and thereafter turned up-side down. Constable Shamsher Singh came beneath the truck and before he could have been rushed to the hospital, he had died. PW-7 also supported the prosecution case. As argued, before the trial Court, it is argued that at the time of accident, there was complete darkness on the road and when the accused saw the three wheeler, he applied brakes with full force but unfortunately, Shamsher Singh while trying to escape, came beneath the truck, as a result of which, he died. This argument shows that there is no dispute regarding the time and place of the accident. Learned Magistrate discussed in detail the defence evidence also and held that DW-1

and DW-2 have admitted having seen the truck from a distance of 10 meters and all the persons present on the spot disassembled seeing the speed of the truck. If it is so, contributory negligence, as suggested by defence counsel, of the deceased while trying to save himself is ruled out.

Learned Magistrate has held that rash and negligent act have been proved against the accused because the truck was being driven at high speed that it was uncontrollable. The accused was driving a fully loaded heavy vehicle with consciousness that evil consequences would follow. Otherwise also, if the truck driver had seen the three wheeler and people standing on the road, it was his duty to slow down the speed of the truck. In the facts and circumstances, it is duly proved that the accused-petitioner was driving the truck rashly and negligently.

In view of the above discussion, I find that the findings given by both the Courts below are correct, per law and do not require any interference from this Court.

From the record, further I find that Constable Shamsher Singh had died in the accident in question, which had occurred due to rash and negligent driving of the petitioner and the petitioner has only been sentenced to undergo rigorous imprisonment for a maximum period of one year under Section 304-A IPC, which is adequate sentence.

Keeping in view the facts and circumstances of the present case, I do not find any ground to reduce the sentence imposed upon the petitioner.

Therefore, finding no merit in the present revision petition, the same is dismissed.

May 23, 2016

Vgulati

**(INDERJIT SINGH)
JUDGE**