

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

**CRR No.1138 of 2011 (O&M)
Date of Decision: October 25, 2016**

Sultan Singh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jitender Dhanda, Advocate
for the petitioner.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sultan Singh against respondent State of Haryana, challenging the impugned judgment of conviction dated 14.07.2009 and order of sentence dated 15.07.2009 passed by learned Addl. Chief Judicial Magistrate, Bhiwani, vide which the petitioner was convicted and sentenced to rigorous imprisonment for a period of one year and to pay fine of ₹1000/- under Section 304-A IPC and to further undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/- under Sections 279 and 337 IPC each and in default of payment of fine, to undergo simple imprisonment for a period of one month and also challenging the judgment dated 22.02.2011 passed by learned Addl. Sessions Judge-V, Bhiwani, vide which

appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against petitioner in case FIR No.168 dated 06.10.2002. The brief facts of the case as noted down in the judgment passed by learned ACJM, Bhiwani, are as under:-

“2. Brief facts of the prosecution case are that on receiving of telephonic message from General Hospital, Bhiwani on 06.10.2002, ASI Kashmir Singh rushed there and recorded the statement of Rajesh Ex.PA after getting the fitness certificate from the doctor. In the statement Ex.PA, he has alleged that he being a student of BA IInd year on 05.10.2002, he along with Ram Mehar son of Jug Lal, Krishan son of Om Parkash was going to village Kayla from Hisar by a pickup vehicle bearing registration No.HR61-1332 driven by Ram Mehar. At about 9.00 P.M., a tractor marka Eicher bearing registration No.HR16-1364 came from the front side in wrong direction driven by the accused in a rash and negligent manner. Ram Mehar tried to escape the pick up vehicle but the tractor directly hit their vehicle. Due to this accident, tyre of the left front wheel brushed and they got suffered the injuries. Ram Mehar and Krishan died at the spot. He became unconscious and was brought to CHC, Tohsam and later on referred to General Hospital, Bhiwani. The driver of the offending tractor fled away from the place of occurrence.”

The case was admitted on 11.07.2011. Learned State counsel appeared and contested the present revision petition.

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

From the record, I find that the complainant Rajesh Kumar was examined as PW-1, who deposed as per prosecution version. A suggestion was put to him that accident had taken place due to the negligence of Ram Mehar, driver of the pick-up, who was driving the same rashly and negligently and due to high speed of the vehicle, the tyre burst and the vehicle hit the tractor trolley and therefore, accused is not liable. PW-1 consistently deposed as per prosecution version and deposed that the

accused was driving the tractor trolley rashly and negligently, which hit the pick-up from the front side and due to that, tyre of the pick-up burst and two persons died in the accident. There is no suggestion by the defence counsel to the witness that present petitioner was not driving the tractor trolley. Therefore, it means that the petitioner is admitting the accident, time and place, though, he is contesting that driver of the pick-up was negligent.

The perusal of the statement under Section 313 Cr.P.C. shows that this defence has not been taken by the accused. Further, no DW has been examined to prove the negligence of Ram Mehar, driver of the pick-up. The mere fact that a jeep of Excise official was there behind the pick-up, as stated in the cross-examination, it cannot be held that the accident took place as the accused is citing. No presumption can be taken that pick-up was being driving rashly and negligently.

Learned counsel for the petitioner also shown the report of the mechanic. The perusal of the mechanical report of the tractor shows that tyres of the tractor trolley were also burst but the tractor has also a bend on front side.

Both the Courts below have consistently given the findings convicting and sentencing the petitioner. There is nothing on the record that impugned judgments passed by the Courts below. No illegality has been committed by the Courts below. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below.

Learned counsel for the petitioner, in the alternative, prayed for reduction of the sentence. In view the fact that two persons have died and

the petitioner has only been sentenced to undergo rigorous imprisonment for

a maximum period of one year, I do not find any ground to reduce the sentence of the petitioner.

In view of the above discussion, I find that the impugned judgments passed by the Courts below are correct, as per law and do not require any interference from this Court.

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

As petitioner Sultan Singh is on bail, his bail bonds stand cancelled and he is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing which the concerned authority shall proceed against him in accordance with law.

October 25, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No