

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

CRR No.2654 of 2010 (O&M)

Date of Decision: 07.11.2016

Rajinder

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Y.S. Rathore, Advocate for
Mr. Parminder Singh, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Jitendra Chauhan, J. (Oral)

The present revision petitions has been filed against the impugned judgment dated 17.09.2010, passed by Addl. Sessions Judge, Karnal, whereby, the appeal filed against the judgment dated 01.05.2009 and order of sentence dated 04.05.2009, passed by Addl. Judicial Magistrate 1st Class, Karnal, was dismissed, vide which, the petitioner was convicted under Section 279 and sentenced to undergo RI for a period of two months and under Section 304-A, to undergo RI for a period of six months.

The brief facts of the case as set out from the judgment of trial Court are as under:-

“On 12.10.2002, HC, Rajbir Singh received an information on telephone that an accident had taken place near village Gudha between a motor cycle and a truck. On receiving the information, HC Rajbir Singh along with Constable Om Parkash reached at the spot, where complainant Mula Singh met him and got recorded his statement to the effect that on 12.10.2002 at 8.00 a.m., when he was coming back to his house from the fields and reached near the fields of Parsa Wala on the road, he stopped on hearing the noise of some vehicle. He saw that Brijesh Kumar, resident of his village was coming on his Hero Honda Splendor motorcycle bearing registration No.HR-33-0459, which was being driven rashly and negligently. Meantime, Sultan Singh son of Arjun was also came on foot from the village side and during this the truck driver dashed into motor cycle of Brijesh from the front side due to which, he fell down along with motorcycle and front tyre of the truck ran over him. The truck was loaded with gas cylinders. Thereafter, the driver stopped his truck at some distance and ran away from the spot. Brijesh succumbed to his injuries at the spot. On the basis of statement, formal FIR was registered against the petitioner and after completion of all the formalities, challan against the petitioner was filed.”

The learned counsel for the petitioner has contended that the trial Court as well as the appellate Court have erroneously passed the impugned judgments/orders, without appreciating the evidence on record. According to the site plan appended with the challan, the alleged accident took place near the curve and middle of

the road while the scooterist came from wrong side. However, it is nowhere established on record that the driver of the truck had driven the truck in a rash and negligent manner, especially when the alleged accident had occurred on curve of the road. The truck in question was allegedly loaded with gas cylinders, therefore, it is highly unbelievable that on the curve, the truck was driven rashly and negligently. He further argued that as per statements of eye witnesses, the alleged driver after parking the truck at some distance, ran away from the spot and in the instant case, no test identification parade was conducted, then how the eye witnesses have identified the accused in the Court. The eye witnesses and accused were not known to each other. In fact, the deceased himself was negligent as he was going on the wrong side of the road and hit with truck as there was curve on the road. There is no iota of evidence that the truck in question was driven rashly and negligently.

On the other hand, the learned State counsel argued that the prosecution has duly proved its case beyond the reasonable shadow of doubt. He states that from the perusal of the record available on court file, it is established that after the accident, the accused/petitioner ran away from the spot and he was duly identified by the eye witnesses, PW-3, Mulla Singh and PW-4, Sultan, therefore, there is no circumstance to show that the accused has been falsely implicated in the instant case.

I have heard the rival contentions and perused the record.

The arguments raised by the appellant that the accident in question occurred on curve of the road and the identity of the accused was not proved as no identification parade was ever conducted in the present case, lack merit. The present case was registered on the statement of complainant, Mulla Singh (PW-3), who was present near the place of occurrence. It is not in dispute that the accident in question took place on 11.10.2002 and deceased died after being hit by a truck bearing registration No.HR-33-0459 and the motor cycle of the deceased got entangled with the truck. PW-3, Mula Singh, complainant/eye witness and PW-4, Sultan Singh, have duly corroborated the prosecution version in their respective testimonies by stating the sequence of occurrence that how and in what manner the accident took place due to rash and negligent driving of the truck driver. Both these witnesses were not known to the accused/petitioner and they had specifically deposed that the accident in question occurred on account of rash and negligent driving of the truck driver. They had stated that the after the accident, the deceased died on the spot and his motor cycle was entangled with the truck. After the accident, the driver stooped the truck at some distance and then ran away. Further, PW-4, Sultan had also stated that after the accident when the petitioner/accused came down from truck, he asked about his name and after disclosing it, he ran away

from the spot, therefore, it cannot be said that the accused was not identified on the spot and he has been falsely implicated in the present case. Both the eye witnesses had duly identified the accused while he ran away from the spot. They had no previous enmity with the accused, therefore, question of false implication does not arise at all. Beside this, the version of eye witnesses have duly been corroborated by PW-8, ASI Rajbir Singh, the Investigating Officer had also deposed that on receiving the information about the accident, he reached at the spot and found the injured lying dead. Thereafter, he recorded the statement of complainant and eye witness and taken into possession the offending truck which was parked at some distance of the place of occurrence. Thus, the prosecution has fully proved its case beyond reasonable doubt against the petitioner/accused.

There is, thus, no illegality in the impugned judgment dated 17.09.2010, passed by Addl. Sessions Judge, Karnal, and judgment dated 04.05.2009, passed by Judicial Magistrate 1st Class, Karnal and the same, are, hereby upheld and affirmed. There is no merit in the present revision petition which is hereby dismissed. The accused/petitioner be taken into custody forthwith to suffer remaining part of sentence.

07.11.2016

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(JITENDRA CHAUHAN)
JUDGE

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