

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 237

Criminal Revision No.2092 of 2015 (O & M)
Date of Decision: August 10, 2016

Surinder Singh

..... PETITIONER

VERSUS

State of Haryana

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Hemant Bassi, Advocate, for the petitioner.

Mr. Tanuj Sharma, Assistant Advocate General,
Haryana.

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Jaspal Singh, J

1. Challenge in this revision petition is to order dated February 16, 2015 passed by learned Additional Sessions Judge, Ambala, whereby the petitioner has been chargesheeted to face trial under Sections 283, 337, 304 Par (II) IPC.

2. While assailing the impugned order, it has been urged by learned counsel for the petitioner that no offence under Section 304 Part (II) IPC is made out even if the allegations contained in FIR as well as statements of witnesses are taken on their face value. Infact, it is a simple case of accident and at the most, an offence under Section 304 IPC can be said to have been prima facie made out, which otherwise, requires to be

site plan prepared by the Investigating Officer during the course of investigation, the truck and car in question were parked on the extreme left side of the road at the time of spot inspection. The accident is alleged to have taken place at 3.15 PM i.e. in broad day light. All these factors have not been considered by the trial court while framing charges. Even no speaking order has also been passed incorporating the various contentions put-forth at the time of arguments on charge.

3. On the other hand, learned State counsel has submitted that the impugned order does not suffer from illegality or infirmity and it is absolutely in consonance with the evidence available on record and legal proposition. No speaking order is required to be passed while framing charges. Since, there was gross negligence on the part of driver of the offending truck, charges have rightly been framed by the trial court.

4. This court has given an anxious thought to the aforesaid submissions made by learned counsel for the parties; perused the record available; and this court finds legal & factual substance in the various submissions made by learned counsel for the petitioner.

5. Accident is alleged to have taken place in broad day light i.e. at about 3.15 PM, and as per the site plan, truck was parked by its driver on the extreme left side of the road and the car rammed into it at its rear side. Initially, FIR was registered under Sections 283, 337, 304-A IPC but subsequently, it appears that just to make it more aggravate and triable by the court of Sessions, Section 304 Part (II) IPC has been inserted while presenting the challan. All these factors were required to be deeply considered by the trial court while framing chargesheet. Thus, this court is of the considered view that impugned order is not sustainable in the eyes of law

6. In the light of what has been discussed above, impugned order is set aside and the case is remitted to the trial court to decide afresh with regard to framing of charge after hearing learned counsel for the parties as well as proper appreciation of evidence available on record by passing a speaking order.

7. Let a copy of this order be sent to the trial court for compliance.

August 10, 2016
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No