

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1076 of 2016(O&M)
Date of Decision: May 04, 2016

Raghbir Singh

...Petitioner

VERSUS

Union Territory, Chandigarh.

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pawan Kumar Sharma, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Raghbir Singh against respondent Union Territory, Chandigarh, challenging the impugned judgment of conviction and order of sentence dated 12.12.2014 passed by learned Judicial Magistrate Ist Class, Chandigarh, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of two months and to pay fine of ₹500/- under Section 279 IPC and to undergo simple imprisonment for a period of one year and to pay fine of ₹500/- under Section 304-A IPC and in default of payment of fine, to undergo simple imprisonment for a period of one month and also challenging the judgment dated 04.03.2016 passed by learned Addl. Sessions Judge, Chandigarh, vide which appeal filed by petitioner was dismissed but the sentence of the petitioner was reduced to six

months instead of one year under Section 304-A IPC.

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

From the record, I find that challan has been presented in FIR No.128 dated 25.05.2010 under sections 279, 337, 338 and 304-A IPC registered at Police Station Manimajra against the present petitioner.

The brief facts of the case as noted down in the judgment passed by learned JMJC, Chandigarh are as under:-

“The case of the prosecution is that on 25.5.2010, on receiving a wireless message about an accident at Railway Point, SI Satyavir alongwith a police party reached at the spot, where an accidental car was found. He came to know that the injured have been taken to PGI by PCR van. On this information, he reached at PGI, where one person Shahnawaz was found admitted in the hospital. His uncle Riaz Ali got recorded his statement to the effect that he is residing in Mohalla Thakurdwara, Manimajra, Chandigarh and works as a Ladies Tailor. Today at about 10.50 p.m., he alongwith his nephew, Shahnawaz were going back from Bapudham colony to their residence on foot. When they reached near Railway Light Point, they were crossing the road, in the meantime, a car came from the slip road in a very rash and negligent manner and hit his nephew and one other passerby. Thereafter, the car turned turtle. Someone rang the police and a PCR van came and took the injured to PGI. He noted down the no. of the car as HR-02S-0043 . The accused taking benefit of commotion, slipped away. He sought action against the accused. On this complaint, FIR was lodged. Accused was arrested. During investigation, injured Shahnawaz succumbed to his injuries. Investigation was launched and after completion of investigation, the challan was submitted in the court as per section 173 Cr.P.C.”

From the record, first of all, I find that the findings of the

Courts below regarding conviction are concurrent. At the time of

arguments, nothing has been argued as to how the judgments passed by the Courts below are perverse i.e. against the evidence and law. Nothing has been pointed out as to which material evidence has been misread or which material evidence has not been considered by the Courts below. This is a revision petition and in the revision, this Court is not to re-appreciate the evidence like Court of an appeal.

From the perusal of the record, I find that no illegality has been committed by the Courts below nor in any way, the findings given by the Courts below can be held as against the evidence or perverse.

Learned counsel for the petitioner argued that statement of injured, who has died later on, has not been placed on the record. He further argued that official of PCR, who took the injured to the hospital has not been examined. He next argued that the eye witness was not taken by the PCR to the hospital and the doctor has also not been examined in this case.

Keeping in view the fact that the injured has already died, there is no necessity to place on record his statement. Moreover, the officials of the PCR, are not the eye witnesses, therefore, they are not material witnesses. Similarly, if one or two persons have been injured, it is not necessary for the PCR van to take the eye witnesses also along with them to the hospital. The first and foremost duty is to shift the injured to the hospital. The eye witness or relative, can come behind after some time. The injured cannot be delayed for being shifted to the hospital.

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

As per the record, learned Addl. Sessions Judge, Chandigarh has reduced the sentence of the petitioner from one year to six months under Section 304-A IPC as stated above. The perusal of the judgment dated 04.03.2016 passed by learned Addl. Sessions Judge, Chandigarh shows that learned counsel for the appellant-petitioner has not challenged the conviction of the petitioner. Therefore, the conviction of the petitioner before this Court cannot be challenged.

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

May 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE