

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1238 of 2016 (O&M)
Date of Decision: March 30, 2016

Kulwant Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Tarun Vir Singh Lehal, Advocate
 for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Kulwant Singh against State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 30.04.2015 passed by learned Chief Judicial Magistrate, Rupnagar, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month under Section 279 IPC and to further undergo rigorous imprisonment for a period of one year and to pay fine of ₹500/- and in default of payment to undergo rigorous imprisonment for a period of one month under each Section 304-A and also challenging the judgment dated 10.02.2016 passed by learned Sessions Judge, Rupnagar, vide which appeal filed by

petitioner was dismissed. Both the sentences were ordered to run concurrently.

At the time of arguments, learned counsel for the petitioner argued that the identity of the accused-petitioner has not been established. He further argued regarding some minor discrepancies in the statements of the witnesses. In the alternative, learned counsel for the petitioner prayed for reduction of sentence imposed upon the petitioner.

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

From the record, I find that as per prosecution version, accident had taken place little behind petrol pump at Rupnagar. On receiving the information, the police officials reached there, where complainant Rajinder Singh got his statement recorded with the Investigating Officer and stated that he along with his wife Gulab Kaur on his motorcycle were going to Anandpur Sahib from Mani Majra and his son Hari Singh and his wife Kaushalya Devi were also going on separate motorcycle. His (complainant) motorcycle was about 50 yards behind of his son's motorcycle. At about 12 noon, a tipper bearing registration No.PB-12C-3817 came from Bharatgarh side, which was being driven by its driver in rash and negligent manner without blowing any horn and struck against the motorcycle of his son. Due to the said impact, his son Hari Singh and daughter-in-law Kaushalya, fell on the road. Both of them received serious injuries and succumbed to the injuries. It is also the case of the prosecution that

the driver of the tipper stopped his vehicle at the spot for some time and on asking, he disclosed his name as Kulwant Singh and thereafter, he fled away from the spot after leaving his truck at the place of accident.

In view of these facts as stated in the FIR, I find that the accused-petitioner, who was driving the tipper, left the vehicle at the spot, which means that he stopped the tipper at the spot and then fled away from the spot. Therefore, there was ample opportunity for the eye witness/complainant to identify the accused. The mere fact that test identification parade has not taken place, in no way, can be held as fatal to the prosecution case. The statement given in the Court is a substantial piece of evidence and in the facts and circumstances of the present case, there was ample opportunity for the complainant and eye witness to see the accused at the spot.

Both the Courts below after appreciating the evidence, have given the findings in right perspective. In no way, it can be held that findings given by the Courts below are perverse i.e. against the evidence or law. The identity of the accused is duly proved from the statements of the witnesses. Otherwise also, it is a revision petition. The Courts below have given concurrent finding of fact regarding the identity of the accused and also the fact that accident has taken place due to rash and negligent driving of the tipper bearing registration No.PB-12C-3817 by the present petitioner. This Court is not to re-appreciate the evidence like Court of appeal. This Court is not supposed to look into the minor discrepancies in the statements in the

revision.

The perusal of the judgment passed by the Courts below nowhere shows that any illegality has been committed while convicting and sentencing the revision petitioner. Otherwise also, due to rash and negligent driving, two persons have died and the petitioner has only been sentenced to undergo rigorous imprisonment for a period of one year under Section 304-A IPC and six months under Section 279 IPC. In no way, the sentence imposed upon the petitioner can be held as excessive. Therefore, no ground is made out, even for reducing the sentence.

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

March 30, 2016
Vgulati

(INDERJIT SINGH)
JUDGE