

108 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR No.1296 of 2016 (O&M)  
Date of Decision: April 28, 2016

Avtar Singh .... Petitioner  
  
vs.  
  
State of Punjab .... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Naveen Batra, Advocate for the petition

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
- 2. To be referred to the Reporters or not?
- 3. Whether the judgment should be reported in the Digest?

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the judgment dated 15.02.2016 passed by learned Addl. Sessions Judge, Rupnagar, affirming the judgment of conviction and order of sentence dated 05.03.2015 passed by learned Sub Divisional Judicial Magistrate, Anandpur Sahib, vide which the present petitioner was convicted and sentenced as under:

| Sr. No. | Conviction (IPC) | Sentence      | Fine (Rs.) |
|---------|------------------|---------------|------------|
| 1       | 279              | 6 months R.I. | 500/-      |
| 2       | 337              | 6 months R.I. | --         |
| 3       | 338              | 1 year R.I.   | 500/-      |
| 4       | 304-A            | 2 years R.I.  | 1,500/-    |

and in default of payment of fine, to further undergo rigorous imprisonment for 60 days. All the substantive sentences were directed to run concurrently.

I have heard learned counsel for the petitioner and have also carefully gone through the case file.

As per allegations made in the FIR, the police received information about the accident and reached at the spot. There, as per version of Jiwan Ram, it was stated that on 28.03.2009, he and father of the complainant, namely, Chhinderpal along with other devotees hired a truck bearing registration No.PB-10Q-9837 for paying obeisance at Baba Balak Nath. Avtar Singh @ Bittu, accused, was driver of the said truck. On 30.03.2009, when they were returning to their village. 110 persons were sitting in the said truck. The complainant was sitting in front seat with the driver of the truck. The truck was being driven rashly and negligently. The complainant many time requested to the accused to drive the truck slowly but he did not listen to him. At about 11.30 p.m., when they reached near village Rampur Jajjar, the accused took a sharp turn, due to which, the truck turned turtle and hit a tree. As a result of which, 20 persons died at the spot and remaining suffered injuries.

In this case, accused loaded 110 persons in the truck, whereas the truck is not meant for carrying passengers. Even thereafter, he was driving the truck rashly and negligently, whereas he should have been much more careful.

Keeping in view the fact that there were 110 persons travelling in the truck. It is apparent that the devotees were loaded in the truck worst than the cattle. The truck took a sharp turn and turned turtle, I am of the view that it is a case, where offence punishable under Section 304 should have been attracted. However, since the challan was presented under Section 304-A, the accused was

tried under the aforesaid section and sentenced to undergo rigorous imprisonment for two years.

After going through the judgments of two courts below, I am of the view that the prosecution case is fully proved.

Keeping in view the fact that 20 persons died in the said accident, there is no ground to show leniency in the sentence already awarded to the petitioner.

Accordingly, the present petition stands dismissed.

**April 28, 2016**  
sarita

**(KULDIP SINGH)**  
**JUDGE**