

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1377 of 2016 (O&M)

.....

Date of decision:7.4.2016

Pardeep

...Petitioner

v.

State of Haryana

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 3.2.2016 passed by learned Additional Sessions Judge, Palwal, whereby the appeal filed by accused-Pardeep against the impugned judgment of conviction dated 7.7.2015 and order of sentence dated 9.7.2015 passed by learned Judicial Magistrate Ist Class, Hodal, convicting the petitioner for the offences under Sections 279, 337, 338 and 304-A IPC and sentencing him to undergo rigorous imprisonment for three months for the offence under Section 279 IPC; further to undergo rigorous imprisonment for three months for the offence under Section 337 IPC; further to undergo rigorous imprisonment for one and half years (18 months) for the offence under Section 338 IPC and further to undergo rigorous imprisonment for one and half year (18

months) for the offence under Section 304-A IPC, has been dismissed.

However, all these sentences have been ordered to run concurrently.

The brief facts of the case as noted by the learned Judicial Magistrate Ist Class, Hodal, in the judgment are as under:-

“The brief and relevant facts of the case of prosecution are that on dated 16.7.2011 complainant Leela Ram, Nanak and Vasudev were going on their motorcycle bearing No.HR-51-A-1496 Marka Splendor to Hodal from Palwal, as it was being driven by Vasudev at around 12.40 PM, when they reached at Bawri turn Hodal and about to cross the road to get enter in Hodal then a car of white colour which was coming from the side of Mathura being driven in a rash and negligent manner and at a very high speed hit in their motorcycle straightway. Due to this accident complainant, Nanak and Vasudev sustained number of injuries. The car driver just stopped his car, and then number of car was noted as UP-86-AA-9621 Indigo CS. Thereafter the accused left behind his car and took on heel. If the accused come before the complainant then he could identify him. It is pertinent to mention here that later on two injured namely Vasudev and Nanak succumbed to the injuries.”

Learned counsel for the petitioner at the time of arguments argued that there is no mention regarding the rash and negligent driving by the petitioner. Rather, three persons were on the motorcycle and it is a case of contributory negligence.

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

From the record, I find that the complainant in his evidence has stated that the driver of the car was coming at a very high speed while driving in a zig zag manner and hit the motorcycle straightway. Due to the accident, the complainant, Nanak and Vasudev sustained number of injuries. Injured Nanak and Vasudev succumbed to the injuries later on. A perusal of the findings given by the Courts below are concurrent and as per evidence and law. The complainant witness, who also received some injuries in the accident, had identified the accused. He also stated that the driver of the car was on a high speed and was driving it in a zig zag manner which itself amounts to rash and negligent manner. No defence evidence has been produced by the accused to show any negligence on the part of the complainant. The mere fact that they were three persons riding is no ground to acquit the accused. The findings of fact given by the Courts below are correct as per evidence and law. Both the Courts below have appreciated the evidence in right perspective. Due to the rash and negligent driving of the present revision petition two persons had died. The identity of the accused has also been duly proved.

In view of the fact that two persons have died due to rash and negligent driving of the present petitioner, the sentence imposed by the Courts below, in no way, can be held as excessive.

Therefore, from the above, the impugned judgments passed by the Courts below are upheld.

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

April 7, 2016.

(Inderjit Singh)
Judge

hsp