

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1420 of 2016 (O&M)
Date of Decision: May 03, 2016

Nishan Masih

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Imran Farooqi, Advocate
 for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Nishan Masih against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 07.02.2015 passed by learned Judicial Magistrate Ist Class, Gurdaspur, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one and a half year and to pay fine of ₹1000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 304-A IPC and also challenging the judgment dated 10.02.2016 passed by learned Sessions Judge, Gurdaspur, vide which appeal filed by petitioner was dismissed.

The brief facts of the case as noted down by learned

JMJC, Gurdaspur in his judgment are as under:-

“The brief facts of the prosecution case are that on 18.10.2008, SI Harpal Singh with HC Ajinder Singh, PHC Joginder Singh, HC Harinderpal Singh, SPO Joginder Singh on private vehicles were present at Adda Naushera Majja Singh in connection with vehicles checking and in search of bad elements in the society, where Lakhbir Singh son of Parkash Singh resident of Chuhar Chak come present and got recorded his statement with SI Harpal Singh that he is the resident of village Chuhar Chak and is a student of BA Part I at Batala. Today i.e. on 18.10.2008, his maternal Aunt (Massi) Raju (Rajbir Kaur) wife of Baljinder Singh, her son Anmol aged about 7 years and her brother in law (Dewar) Rupa (Jagroop Singh) came to their village to meet them and they made a program to go to Gurdaspur to meet his second maternal aunt (Massi). Rupa, his (complaint) brother Jasbir Singh, Massi Raju and Anmol were on Bullet Motorcycle bearing No.PB-6E-1500, which was being driven by Rupa and he (complainant) with his father Parkash Singh was on his own Scooter Bajaj Chetak. His Massi Raju is the resident of village Wadala Granthian. They were going on their own vehicles towards Gurdaspur from village Chuhar Chak. His Massi etc. were going ahead on the motorcycle and he and his father were following them on their own scooter. When they reached at some distance of T-point of village Suchetgarh, it was about 6.30 p.m., a Tralla being driven by a hair cut person on a very high speed on its wrong side was coming from the front side i.e. Gurdaspur side and rammed over the motorcycle of his Massi. Due to this Tralla crushed the motorcycle and also crushed his brother Jasbir Singh, Raju and Anmoldeep. The driver of the Tralla ran away after leaving the Tralla at the spot. The number of the Tralla is PB-05M-9787. Jasbir Singh and Anmol died at the spot due to serious injuries. His Massi Raju and Rupa also received multiple injuries. After arranging the vehicle, they were sent to Civil Hospital, Gurdaspur. He was going to inform the police after leaving his father Parkash Singh near the dead bodies. Action be taken”

At the time of arguments, learned counsel for the petitioner only argued on two points. Firstly, that no test identification parade has been taken place and secondly, that accident has occurred due to contributory negligence.

After hearing learned counsel for the petitioner and after

going through the record, I find that no defence witness has come to the witness box to depose as per version of the accused regarding contributory negligence. There is nothing on the record to prove that the accident has occurred due to negligence of the deceased or driver of the motorcycle. Three persons have been killed in the accident and the complainant, who is also the eye witness, has deposed in the Court that accident has taken place due to the rash and negligent driving of the Tralla by Nishan Masih petitioner.

The finding of fact has already been given by the Courts below. The Tralla was taken into police possession from the spot. As per the statement of Investigating Officer, the accused was apprehended at the spot. In the revision petition, this Court is not to re-appreciate evidence and not to look into the minor discrepancies. In no way, the findings given by the Courts below, can be held as perverse. Nothing has been pointed out as to which material evidence has been misread or which material evidence has not been considered by the Court below.

Firstly, as the Tralla was left at the spot by the present petitioner at the time of accident, there was sufficient time for the witness to see the Tralla and driver i.e. present petitioner. As already discussed, the Investigating Officer has stated that driver was apprehended at the spot by the police, who reached the spot after some time. Keeping in view these facts, there is no need for test identification parade.

In the alternative, learned counsel for the petitioner prayed

for reduction of the sentence.

In view of the fact that due to the rash and negligent driving of Tralla by the present petitioner, three persons have died, I do not find any ground to reduce the sentence.

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

May 03, 2016
Vgulati

(INDERJIT SINGH)
JUDGE