

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.1849 of 2016 (O&M)
Date of Decision: May 17, 2016

Sabir

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Satish Chaudhary, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sabir against respondent State of Punjab under Section 401 Cr.P.C. challenging the impugned judgment of conviction dated 13.08.2015 and order of sentence dated 14.08.2015 passed by learned Judicial Magistrate Ist Class, Gurgaon, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of three months and to pay a fine of ₹250/- under Section 279 IPC and to undergo simple imprisonment for a period of one year and to pay fine of ₹1000/- under Section 304-A IPC and in default of payment of fine, to undergo simple imprisonment for a period of two months under Section 304-A IPC and also challenging the judgment dated 22.04.2016 passed by learned Addl. Sessions Judge, Gurgaon, vide which appeal filed by petitioner was dismissed.

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

“The crux of the prosecution story is that on 28.8.2013, a telephonic information was received at P.S.Manesar, that an accident has been occurred at village Naharpur. On getting this information, ASI Vikas Kumar reached the place of occurrence and got recorded the statement of the complainant, namely Jitender. He stated therein that on 28.8.2013, he came to meet his brother, namely Nathulal. Both of them planned to go to the market. Nathulal was walking at some distance from the complainant. At about 7.30 P.M., when they reached near the Naharpur Kasan market, a truck which was driven by its driver in a rash and negligent manner, hit Nathulal and crushed him. When the complainant made noise, the truck driver stopped his truck. The number of the truck was noted down as HR-55M- 4673. When the complainant went to attend his brother, the truck driver taking the advantage of the situation, ran away from the place of occurrence. The complainant also stated that he asked the name of the driver and he told his name as Sabir. Accordingly, a case was registered against the accused under Sections 279 & 304-A of IPC.”

Learned JMIC, Gurgaon, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Gurgaon, vide judgment dated 22.04.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner argued that identity of the petitioner has not been proved beyond reasonable doubt in the present case and no identification parade has taken place.

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

From the record, first of all, I find that both the Courts below have given concurrent findings regarding the fact of identity.

The eye witness has deposed regarding the rash and negligent driving of the truck bearing registration No.HR-55M-4673 by the petitioner. The FIR was registered immediately without any unnecessary delay as police reached the spot when the police was informed regarding the accident and police shifted the injured to the hospital. As per the record, truck was taken into police possession from the spot. The present petitioner is named in the FIR. It is stated by the complainant that he noted down the number of the truck and further, the driver stopped the truck and told his name as Sabir, which has been mentioned in the FIR itself and it does not create any doubt regarding the identity of the accused. Otherwise also, the evidence in the Court is substantial piece of evidence whereas identification parade is corroborative piece of evidence.

Further, this is a revision petition. In the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal. From the record, I find that findings given by both the Courts below are correct and as per 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.

In view of the above discussions, I find the judgments passed by both the Courts below are correct, as per law and do not require any interference from this Court.

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

May 17, 2016**Vgulati****(INDERJIT SINGH)
JUDGE**