

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR No.1932 of 2016 (O&M)
Date of Decision: May 23, 2016

Yadwinder Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.K.Shukla, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Yadwinder Singh against State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 30.07.2015 passed by learned Judicial Magistrate Ist Class, Jalandhar, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months under Section 279 IPC and to further undergo rigorous imprisonment for a period of one year under Section 304-A IPC and also challenging the judgment dated 15.02.2016 passed by learned Addl. Sessions Judge, Jalandhar, vide which appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against petitioner Yadwinder Singh in case FIR No.54 dated 09.04.2013 under Sections 279, 304-A, 337, 338 and 427 IPC.

The brief facts of the case as noted down in the judgment passed

by learned JMIC, Jalandhar, are as under:-

“Brief facts of the prosecution case are that HC Salinder Singh alongwith his colleagues was present at Adda Kishangarh Chowk upon their private vehicles in connection of patrolling, wherein complainant Raunki Ram alongwith one Tarsem Lal came present and got recorded his statement to the effect that he is a labourer and at around 02.15 P.M he alongwith one Kirpal Chand who is resident of Village Bias Pind were sitting at Tea Stall at Adda of their village. He further stated that his relative Sadhu Singh son of Banta Singh, resident of Village Dyalpur Gate, Kartarpur who was coming from Kartarpur via Kurali to Bias Pind at his Activa bearing No.PB08-BF-6113 of Silver Color. He further stated that said Sadhu Singh after crossing the Pathankot Road at the Highway was proceeding towards Jalandhar Road and for that matter he was standing at the crossing (divider) to cross the Pathankot road and was waiting for the traffic to pass. It is stated that from Jalandhar side, one Bus bearing No.PB13-AB-5187 of Blue color belonging to Libra Company and the driver name of whom was disclosed as Yadwinder Singh son of Paramjit Singh came at a very high speed and the driver of whom without blowing the horn and in a very negligent manner struck his bus against the Activa with full force and thereafter he lost his control over the bus and the bus struck the divider and further had dragged the deceased Sadhu Singh at considerable distance. He further narrated that owing to the said accident Sadhu Singh was dragged at a distance of around 50 feet and he fell on the left side of the road. Thereafter, Kirpal Chand and the complainant tried to rescue Sadhu Singh but he died at the spot. The Activa which was being driven by the deceased was badly damaged and he stationed Kirpal Chand at the spot and he alongwith one Tarsem Lal went to the police station to inform them about the accident. The complainant recorded that the present accident had taken place owing to the rash and negligent drivig of the accused Yadwinder Singh and prayed that necessary criminal action be taken against him. Thereafter, ruqa was sent under section 304-A/279/427 of the Indian Penal Code and thereafter, formal FIR was registered against the accused. Investigation was commenced. Postmortem of the deceased was got conducted. Accused Yadwinder Singh was arrested on 11.04.2013. The statement of the witnesses were recorded under section 161 Cr.P.C. Thereafter, after completion of the formalities, challan against the accused under sections 279/304-A/337/338/427 of the Indian Penal Code was presented.”

Learned JMIC, Jalandhar, 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, Jalandhar, vide judgment dated 15.02.2016.

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

Learned counsel for the petitioner argued that the identity of the accused has not been proved on the record. He also argued that presence of eye witness looks doubtful. 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 findings given by both the Courts below are concurrent, as per evidence and law. The evidence has been appreciated in right perspective. In no way, the findings given by the Court below can be held as perverse or against the evidence. Nothing has been pointed out as to which material evidence has not been considered or which material evidence has been misread by the Courts below. As per the version of the prosecution, the FIR was registered on the same day and the accused-petitioner was named in the FIR. The bus number was also mentioned in the FIR. The rash and negligent driving of the bus by the accused-petitioner has also been proved. The bus dragged the victim upto about 50 feet and further, the bus hit the divider, which shows that bus was being driven rashly and negligently. The bus was left on the spot and there was every opportunity with the witness to identify the accused and the witness has identified the accused in the Court.

Furthermore, it is a revision petition. In the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal. The

fact that the presence of the witness looks doubtful etc., I find that this is finding of fact which has already been given by both the Courts below. There is nothing on the record from which it can be held that presence of witness is doubtful.

From the record, I find that Sadhu Singh had died in the accident in question, which has occurred due to rash and negligent driving of the petitioner and the petitioner has only been sentenced to undergo rigorous imprisonment for a maximum period of one year under Section 304-A IPC which is adequate sentence.

Keeping in view the facts and circumstances of the present case, I do not find any ground to reduce the sentence imposed upon the petitioner.

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

May 23, 2016
Vgulati

(INDERJIT SINGH)
JUDGE