

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

**CRR No.1976 of 2016 (O&M)
Date of Decision: August 08, 2016**

Radhey Shyam

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ravi Sodhi, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Radhey Shyam under Section 401 Cr.P.C. against respondent State of Haryana, challenging the impugned judgment of conviction dated 11.02.2015 and order of sentence dated 13.02.2015 passed by learned Judicial Magistrate Ist Class, Faridabad, vide which the petitioner was convicted under Sections 279, 337 and 304-A IPC and sentenced to undergo rigorous imprisonment for a maximum period of one year along with fine under Section 304-A IPC and also challenging the judgment dated 27.04.2016 passed by learned Sessions Judge, Faridabad, vide which appeal filed by the petitioner was dismissed. All the sentences were ordered to run concurrently.

From the record, I find that challan was presented against the petitioner in case FIR No.165 dated 22.06.2007 under Sections 279, 337,

judgment passed by learned JMIC, Faridabad, are as under:-

“2.Briefly stated, the prosecution case is that on 22.06.2007 ASI Roop Chand along with HC Arvind Kumar No.1451 was present on patrolling duty at Pali Badkhal road, where complainant Sachin Parashar s/o Sh.Vijay Krishan r/o H.No.1131, Sector-8, Faridabad got recorded his statement to the effect that he is an advocate by profession. On 22.6.2007 at around 2.30 pm he was doing to Badkhal from Pali on his motorcycle. When he reached 2-4 kms. away from Pali, he saw that one Alto car bearing No.HR-51-T-9777 was going ahead of his motorcycle and a dumper bearing No.HR-38-N-5797 came from front side in a rash and negligent manner and hit the car. Due to this accident, the direction of the car was changed and the driver of the car died on the spot. A girl was also sitting in the car, who also sustained injuries. Though he does not know the name of the girl. On the basis of these allegations, formal F.I.R. under Sections 279, 337, 304A IPC was registered. In further investigation, site plan was prepared and statement of witnesses were recorded. During investigation accused was arrested. After completion of investigation and finding substantial incriminating material against the present accused, challan was presented before the Court by the S.H.O., Police Station Suraj Kund, Faridabad.”

The accused was charge-sheeted under Sections 279, 337 and 304-A IPC vide order dated 15.10.2007 to which accused pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Ram Kishan, PW-2 Sachin Parashar, complainant, PW-3 SI Kanwar Chand, PW-4 Dr.S.C.Gupta, SMO, PW-5 Dr.Ajit Partap Singh, Radiologist, PW-6 Dr.Rajeev Nayyar, PW-7 SI Tej Pal, PW-8 Constable Gugan Ram, PW-9 Abhimanyu Sharma, PW-10 Vishnu Dutt and PW-11 Sijal.

Learned JMIC, Faridabad, 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 Sessions Judge, Faridabad vide judgment dated 27.04.2016.

Aggrieved from the above-said judgments, present revision

petition has been filed.

I have heard learned counsel for the petitioner and have gone through the record as well as lower Court record.

The findings given by learned Courts below are correct, as per evidence and law. In no way, the judgments passed by learned Courts below can be held as perverse. No illegality has been committed while passing the impugned judgments. Nothing has been pointed as to which material evidence has been misread or which mater evidence has not been considered by learned Courts below. This is a revision petition and in the revision petition, this Court is not to re-appreciate the evidence, like Court of an appeal and this Court is only to see whether any findings are perverse or against the evidence and law. This Court is only to see whether any material evidence has not been considered or has been misread.

Learned counsel for the petitioner argued that complainant is interested person and identity of the accused-petitioner is not proved. The girl who was stated to be sitting in the car has not been examined and there is no reference of eye witness in the FIR.

From the record, I find that this is no ground that the complainant is interested person being relative and only on this ground, his testimony cannot be held as unreliable. The Court is to see whether the statement of the complainant is reliable or not. I have perused the evidence in the lower Court record. There is nothing to show that this witness is not reliable witness. Again, both the PWs i.e. the complainant and eye witness, who have also received some injuries, have deposed consistently regarding the prosecution version and identified the accused-petitioner in the Court,

which is substantial piece of evidence. The mere fact that the girl who took

In view of the above discussion, I find that the findings given by learned Courts below are correct, as per law and do not require any interference from this Court.

August 08, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No