

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

**CRR No.2027 of 2016 (O&M)
Date of Decision: August 02, 2016**

Davinder Singh @ Sonu

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Naveen Batra, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Davinder Singh @ Sonu under Section 401 Cr.P.C. against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 24.09.2012 passed by learned Sub Divisional Judicial Magistrate, Anandpur Sahib, vide which the petitioner was convicted under Sections 279, 338, 337 and 304-A IPC and sentenced to undergo rigorous imprisonment for a maximum period of two years under Section 304-A IPC along with other sentences and fine and also challenging the judgment dated 13.05.2016 passed by learned Addl. Sessions Judge, Rupnagar, vide which appeal filed by petitioner was dismissed but the sentence of the petitioner was reduced and he was directed to undergo rigorous imprisonment for a period of one year instead of two years under Section 304-A IPC and the remaining sentences and fine were kept the same. All the sentences were

ordered to run concurrently.

From the record, I find that challan was presented against Davinder Singh @ Sonu in case FIR No.27 dated 15.03.2006 under Sections 279, 338, 304-A and 427 IPC. The brief facts of the case as noted down in the judgment passed by learned SDJM, Anandpur Sahib, are as under:-

“2. Brief facts as put forth by prosecution are that on 15.03.2006, complainant Tarsem Kumar son of Ram Asra, resident of village Dabota, P.S. Nalagarh, Distt. Solan (H.P.) made statement before the police of P.S. Anandpur Sahib to the effect that he is mason by profession. On that day at about 10.30 pm, he alongwith Dinesh Kumar son of Balak Ram resident of Manku Majra, P.S. Nalagarh, after paying obeisance at Anandpur Sahib were going on his scooter to the in-laws of his brother Santosh Kumar at village Chandesar. His brother Santosh Kumar on scooter bearing No.PB-16A-0152 along with Ishar Dass son of Ram Kishan resident of village Chandesar was also going to village Chandesar. When they were yet to reach the Welcome Gate of village Majara and were at a distance of 50 yards, an Indica Car being registration No.CH-03-6248 of dark red colour after crossing him and its driver while driving the same in a high speed rashly and negligently hit the scooter of Santosh Kumar and Ishar Dass, due to which they fell down along with the scooter and received grievous injuries. The driver of the Car disclosed his name as Devinder Kumar son of Gurmail Singh of Sonu Tent House, Nurpur Bedi, who by taking benefit of darkness fled away from the spot leaving the Car at the spot. Both injured were shifted to Civil Hospital, Anandpur Sahib, where during treatment, Ishar Dass died and Santosh Kumar fell unconscious and was under treatment. This accident was caused by Devinder Kumar while driving said Indica Car rashly and negligently. In this accident, scooter was also damaged. On the basis of this statement, FIR was registered in the Police Station.

3. Thereafter, investigation of this case was conducted and during the investigation, vehicle was taken into police possession and accused was arrested. Spot was inspected, site plan was prepared and statements of the witnesses were recorded. Inquest report was prepared. Postmortem of the dead body was got conducted. Upon completion of the investigation, challan was presented for offence under Section 279, 338, 304-A, 427 IPC against the accused.”

Learned SDJM, Anandpur Sahib, 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, Rupnagar with the modification in the sentence as stated above, vide judgment dated 13.05.2016.

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

At the time of arguments, learned counsel for the petitioner argued that in the cross-examination, witnesses have not proved the identity of the accused-petitioner. Therefore, he argued that accused-petitioner is entitled to acquittal. 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 entire record.

I have gone through the statements of the material witnesses i.e. Tarsem Kumar, complainant and Santosh Kumar, injured eye witness. Both these PWs have duly proved the case in chief-examination and consistently deposed as per prosecution version. They specifically stated that accused present in the Court was driving the car, which was left at the spot. It is also deposed by these PWs that after stopping the car, the accused came at the spot and disclosed his name and address. The examination-in-chief of these PWs was deferred and they were cross-examined after about one year and then these PWs stated in cross-examination that they could not see the face of the accused etc. Learned SDJM, Anandpur Sahib in the judgment has discussed these aspects by citing the law laid down by the Hon'ble Supreme Court. Otherwise also, it is for the Court below to appreciate the evidence

Courts below have relied upon the statements of the witnesses given by them in chief-examination and ignored the variation and minor discrepancies in the statements.

This is a revision petition. In the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal. No illegality has been committed by the Courts below. The evidence has been appreciated in right perspective. Nothing has been pointed out as to which material evidence has been misread and which material evidence has been left to be considered by the Courts below.

In view of the above discussion, I find that the findings given by learned Courts below are correct, as per law and in no way, these can be held as perverse. As the sentence imposed upon the petitioner has already been reduced, therefore, keeping in view the nature and gravity of the offence, I do not find any ground to further reduce the sentence imposed upon the petitioner.

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

August 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No