

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.3368 of 2015 (O&M)****Date of Decision: February 17, 2016**

Sunder Singh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Keshav Pratap Singh, Advocate
for the petitioner.

Mr.Himmat Singh, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sunder Singh against State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 17.04.2014 passed by learned Addl. Chief Judicial Magistrate, Faridabad, 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 with a direction to pay compensation of ₹50,000/- to the complainant and also challenging the judgment dated 05.08.2015 passed by learned Sessions Judge, Faridabad, vide which appeal filed by petitioner was dismissed.

The brief facts of the case are that on 02.11.2006, an intimation was received from the B.K.Hospital in police station Chhainsa regarding admission of injured in road side accident. On receiving information, ASI Tara Singh along with other police officials reached there and statement of complainant Sukhram was recorded, who stated that he along with his brother Shankar Lal had gone in the field tubewell in the morning. Shankar Lal after switching on the tubewell set out for his duty through road on foot on his own side. IN the meantime, a tractor bearing registration No.HR-30D-1534 was seen coming from Mohna side, which was being driven in a rash and negligent manner on a high speed and dashed against his brother from the back side. As soon as the tractor dashed against his brother, he brought him up immediately. The blood was oozing out from his nose, head and other parts of the body and his ribs had been cracked. After approximately 500 sq. yards, the tractor topple off. In the meantime, Dinesh, his nephew and Ranbir also reached at the spot, who were also working in the field. The driver of the tractor ran away after leaving the tractor at the spot.

Notice of motion was issued and learned State counsel appeared and contested the petition.

At the time of arguments, learned counsel for the petitioner argued only on one point that identity of the accused is not proved. In the alternative, learned counsel for the petitioner prayed for reduction of sentence imposed upon the petitioner.

On the other hand, learned State counsel argued the

identity of the accused-driver has been duly proved by the eye witnesses and the prosecution has duly proved its case by leading cogent evidence. He further argued that there was sufficient opportunity for the eye witnesses to see the driver as the driver of the tractor at the spot.

After hearing learned counsel for the petitioner as well as learned State counsel, I find that the prosecution examined PW-1 Dr.Narender Rana, PW-2 SI Tara Singh (Retd.), PW-3 Sukhram, complainant, PW-4 SI Tejpal, PW-5 ASI Jamil Khan, PW-6 Ranbir, PW-7 Shibu and PW-8 Dinesh Kumar. PW-3 Sukhram, complainant, while appearing in the witness box, deposed as per prosecution version. PW-6 Ranbir and PW-8 Dinesh, both eye witnesses, appeared in the witness box and corroborated the prosecution version.

As per the facts of the case, as the tractor was left on the spot, therefore, these PWs have sufficient opportunity to see the accused-driver and they have identified the accused in the Court. The identification of the accused in the Court is a substantial piece of evidence. It is in the evidence that all the witnesses have deposed that tractor toppled off at the spot.

Keeping in view the above facts, I find that eye witnesses have duly proved the identity of the accused-petitioner. The PWs have consistently deposed regarding the prosecution version. The rash and negligent driving of the petitioner has been duly proved.

There are no material contradictions or material improvements in the

statements of the witnesses. There is nothing in their cross-examinations, which may make their statements unreliable. The prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt.

Otherwise also, this is a revision petition and this Court is not to re-appreciate the evidence like a Court of an appeal. From the record, I find that no illegality has been committed by the Courts below while convicting the petitioner. In no way, the judgments of conviction can be held as perverse. Nothing has been pointed as to which material evidence has been misread or which material evidence has not been considered by the Courts below. Therefore, the judgments of conviction passed by the learned Courts below are correct, as per law and do not require any interference from this Court.

As regarding the prayer for reduction of sentence, I find that revision petitioner was young man of 34 years at the time of occurrence and he is stated to be first offender. The petitioner is suffering from long protracted criminal proceedings since 2006 i.e. for the last 10 years. He is also stated to be a poor person and only bread earner of the family.

Keeping in view the facts and circumstances of the present case, the sentence of the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of ten months under Section 304-A IPC instead of one year. However, the other sentence and sentence of fine, shall remain the same. The petitioner is directed to pay the compensation to the complainant within fifteen

days from today as directed by the trial Court, otherwise, the above-said modification in the sentence, will be treated not granted.

With the above-said modification in the sentence, the present revision petition stands dismissed.

February 17, 2016
Vgulati

(INDERJIT SINGH)
JUDGE