

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

**CRR No.2233 of 2016 (O&M)
Date of Decision: August 24, 2016**

Darshan alias Tinku

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Anshumaan Dalal, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Darshan @ Tinku under Section 401 Cr.P.C. against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 09.10.2015 passed by learned Sub Divisional Judicial Magistrate, Balachaur, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹1,000/- and in default of payment of fine, to undergo simple imprisonment for a period of one month under Sections 279, 337, and 338 IPC each and further to undergo rigorous imprisonment for a period of two years and to pay fine of ₹1,000/- and in default of payment of fine, to undergo simple imprisonment for a period of one month under Section 304-A IPC and to pay fine of ₹500/- and in default of payment of fine, to undergo simple

imprisonment for a period of one month under Section 427 IPC and also

challenging the judgment dated 16.05.2016 passed by learned Sessions Judge, SBS Nagar, 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 other sentence and fine were kept the same. All the sentences were ordered to run concurrently.

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

“Accused Darshan @ Tinku son of Suraj was forwarded by the Station House Officer of Police Station Kathgarh to face trial under sections 279, 304-A, 337,338 & 427 of Indian Penal Code, with the allegations that on 29.10.2013, at about 7.15 a.m., in the area of turn of village Mutton, he while driving car bearing registration No.DL-12C-6436 on a public way in rash & negligent manner, caused death of Valsa Katyal, grievous injuries to Alka Saxena, simple injuries to Ashok Saxena and damaged car bearing registration no. PB-01-A-4176, regarding which Ashok Chander Saxena made statement before the police on 29.10.2013 , on the basis of which F.I.R. of this case was registered. During the course of investigation, investigating officer visited place of occurrence and prepared its rough site-plan. Statements of the witnesses were recorded. Car was taken into police possession. Accused was arrested. After completion of investigation, challan was presented in the Court against accused.”

To prove its case, the prosecution examined PW-1 Head Constable Joginder Pal, PW-2 Head Constable Dharam Chand, PW-3 Dr.Anil Kumar, PW-4 Head Constable Chaman Lal, PW-5 Amrit Pal Singh, PW-6 Dr.Jaswinder Singh, PWs Pawan Katyal, Ashok Chander Saxena, complainant, PW-9 Alka Saxena, injured, PW-10 Anil Seth, PW-12 Deepak Chauhan and PW-13 Arvind Kumar.

In the statement under Section 313 Cr.P.C., accused denied the correctness of the evidence and pleaded his false implication.

Learned SDJM, Balachaur, 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, SBS Nagar, with the modification in the sentence as stated above, vide judgment dated 16.05.2016.

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.

From the record, I find that in the present case, deceased complainant and injured were going in the car of the accused, which was hired as taxi by the complainant side. I have gone through the lower Court record also. The PWs have consistently deposed that accused-petitioner was driving the car at high speed, rashly and negligently. The driver-petitioner was also told to drive the car slowly. The accident occurred when the accused-driver was trying to overtake a truck and hit the car coming from front side. There is no dispute regarding the identity of the accused.

Further, the owner of the vehicles has also come to the witness box and deposed that the car was given on rent to the present accused-petitioner. The injured and the complainant have consistently deposed regarding the rash and negligent driving of the petitioner. Otherwise also, the present petitioner was overtaking the vehicle, therefore, he is to see that no accident occurs while overtaking as the other vehicle was coming from front side on its right side. Rash and negligent driving of the petitioner is duly proved.

I have gone through the judgments passed by the Courts below.

Both the Courts below have given concurrent findings regarding the conviction of the revision petitioner. The perusal of the judgments shows that findings are correct, as per evidence and law and 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. Nothing has been pointed out as to how the findings given by learned Courts below are perverse or against the evidence. Nothing has been pointed out as to what illegality has been committed by the Courts below and how the findings are against the law. This is a revision petition. In the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal.

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 by learned lower Appellate Court and he was directed to undergo rigorous imprisonment for a period of one year instead of two years, 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 24, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No