

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

CRR No.2656 of 2016 (O&M)
Date of Decision: August 27, 2016

Bhupinder Singh @ Bhinda

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.H.P.S.Ghuman, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Bhupinder Singh @ Bhinda under Section 401 Cr.P.C. against respondents State of Punjab and Surinder Kumari Sharma, challenging the impugned judgment of conviction and order of sentence dated 22.07.2013 passed by learned Addl. Chief Judicial Magistrate, Hoshiarpur, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹2,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 304-A IPC and further 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 rigorous imprisonment for a period of one month under Section 279 IPC and also challenging the judgment dated 06.06.2016 passed by

learned Addl. Sessions Judge, Hoshiarpur, 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 another 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 ACJM, Hoshiarpur, are as under:-

“In brief, the case of the prosecution is that on 16.07.2006, ASI Jagir Singh along with other police officials was going towards Bhikhowal on Govt. Vehicle in connection with patrolling duty and when at about 11.30 AM, the police party reached near village Bhikowal found that many persons were gathered near bus of Azad Transport bearing no.PB-07R-4065. Where one Surinder Kumari got recorded her statement with ASI Jagir Singh to the effect that she along with her mother Pushpa Devi came to pay obeisance at holy Gurudwara at Bhikowal in a bus and when she along with her mother alighted from the bus at Bhikhowal and were crossing the road, then in the meantime a bus belonging to Azad Transport bearing no.PB-07R-4056 in a very rash and negligent manner without blowing any horn came and struck the same from its driver side into her mother and as a result of which her mother fell down on the road and the bus dragged her mother to some distance. Her mother succumbed to her injuries at the spot. The said accident had taken place due to negligent driving of the driver. The accused escaped from the place of accident while leaving the bus at the spot. Later on the name of driver came to know as Bhinda. She informed her brother in this regard on telephone. The police party also came on the spot. Action be taken against the accused. After recording the statement of the complainant, a formal FIR under Sections 279, 304-A IPC was registered against the accused.XXX ”

Learned ACJM, Hoshiarpur, 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, Hoshiarpur, with the modification in the sentence as stated above, vide judgment dated 06.06.2016.

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

At the time of arguments, learned counsel for the petitioner mainly argued on one point that identity of the accused-petitioner has not been established as no identification parade was got conducted by the police. In the alternative, learned counsel for the petitioner prayed for reduction of the sentence imposed upon the accused-petitioner.

I have heard learned counsel for the petitioner and have gone through the record.

As regarding identity of the accused-petitioner, I find that PW-2 Surinder Kumari Sharma in cross-examination has specifically deposed that she was knowing the accused earlier to the occurrence because he used to come to the house of Gandhi as they have looted their house and accused also used to drink with Gandhi. A litigation is also pending with Gandhi and accused used to come along with Gandhi and help him. It is also in cross-examination that accused used to drive the vehicle of Gandhi. It is further in the cross-examination that no complaint was ever filed against the accused. A suggestion was given that death of mother of the complainant was due to her negligence and the name of the accused has been falsely given.

As per evidence of the prosecution, bus was left at the spot and after that driver of the bus i.e. accused-petitioner fled away. As the bus was stopped near the place of occurrence and the accused fled away, therefore, there was every possibility for the witness to see the driver. Furthermore, the evidence given in the Court is a substantial piece of evidence and

identification parade is only a corroborative piece of evidence. There is

nothing on the record to disbelieve the statement of the complainant eye witness regarding identity of the accused. Two Courts below have consistently given the findings regarding the guilt of the accused and his conviction. 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 not been 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 do not require any interference from this Court. 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 under Section 304-A IPC, 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 27, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No