

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.3082 of 2016 (O&M)

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Date of decision:9.11.2016

Anil Kumar

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Mahir Sood, Advocate for the petitioner.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent-State.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 9.8.2016 passed by learned Sessions Judge, Patiala, vide which the appeal filed against the judgment of conviction and the order of sentence dated 5.10.2015 passed by the learned Sub Divisional Judicial Magistrate, Nabha, convicting the petitioner for the offences under Sections 279, 337, 338 and 304-A IPC and sentencing him to undergo rigorous imprisonment for six month for the offence under Section 279 IPC; rigorous imprisonment for one year for the offence under Section 304-A IPC; rigorous imprisonment for six months for the offence under Section 337 IPC and rigorous imprisonment for nine

months for the offence under Section 338 IPC, has been dismissed.

Notice of motion has been given in this case.

Ms. Shivali, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and contested this criminal revision.

I have heard learned counsel for the petitioner and learned Assistant Advocate General, Punjab and have gone through the record.

From the record, I find that the FIR in the present case has been recorded against Anil Kumar-present petitioner on 10.8.2011 for the offences under Sections 279, 337, 338 and 304-A IPC at Police Station Kotwali, Nabha.

The brief facts as noted down in the judgment dated 5.10.2015 passed by learned Sub Divisional Judicial Magistrate, Nabha, are as under:-

“The criminal law in the present case was set into motion on the statement Ex.PW.2/1 of HC Amrik Singh recorded on 10.8.11. Briefly stated it has been reported by HC Amrik Singh that he was posted at Nabha. On that day i.e. 10.8.11 he alongwith HC Beant Singh who was posted with him in Traffic Police Nabha was going on scooter No.PB-11J-6564, after completing the duty with regard to SGPC Elections. They were going towards the turning of SDM residence for point duty. Then at around 2/2.30 P.M., when they reached near Kala Paha Chowk Ranjit Nagar, Nabha, then from the back side a Tralla bearing No.RJ 07 GB 3317 came and its driver crashed the same into their

scooter by driving it at a high speed and negligently and without blowing any horn. The scooter was being driven by HC Beant Singh and he was pillion rider. He fell down on the left side of the road and sustained injuries. The Tralla dragged H.C. Beant Singh along with the scooter. He died at the spot. One leg of H.C. Beant Singh got separated from his body. The name of the driver of the Tralla was later on revealed to be Anil Kumar. The accident took place due to the negligence of Anil Kumar. On the basis of the statements police proceedings were scribed and FIR was registered. The spot was got photographed. Form 25-35 (1)A was completed and statements of witnesses under Section 175 Cr.P.C. were recorded. The dead body was subjected to post-mortem examination. The spot was inspected and site plan was prepared. The Tralla No.RJ 07 GB 3317 and scooter No.PB 11 J 6564 Brand Bajaj Chetak were taken into police possession along with DL of Beant Singh vide separate memos. Accused was arrested. Personal search memo and arrest memo were prepared. The RC of Tralla along with permit and DL of Anil Kumar were also taken into police possession vide separate memo. The mechanic test reports of scooter No.PB 11 J 6564 and vehicle No.RJ 07 GB 3317 (18 years) were obtained. Statement of HC Harjinder Singh under Section 161 Cr.P.C. was recorded and after completion of the investigation the

accused was challaned in the present case.”

The learned Sub Divisional Judicial Magistrate, Nabha, after appreciating the evidence produced on the file convicted and sentenced the present petitioner as mentioned above. Aggrieved against this judgment, the petitioner-accused filed an appeal and the learned Sessions Judge, Patiala vide judgment dated 9.8.2016 dismissed the appeal.

At the time of arguments, leaned counsel for the petitioner argued that the petitioner has been falsely implicated in this case. He is innocent and the present petitioner is not negligent in causing the accident and the identity of the accused is also not proved beyond doubt.

On the other hand, learned Assistant Advocate General, Punjab argued that the case of the prosecution has been duly proved and the judgments passed by the Courts below are correct as per evidence and law and do not require any interference.

After hearing learned counsel for the petitioner as well as learned State counsel and after going through the lower Courts record, I find that nothing has been pointed out at the time of arguments as to how the findings given by the Courts below are perverse or against the evidence. Nothing has been pointed out as to how the findings given by the Courts below are illegal i.e. against the law. Nothing has been pointed out as to which material evidence has been misread by the Courts below and as to which material evidence has not been considered by the Courts below. HC Amrik Singh, who is the complainant, has deposed consistently regarding the prosecution version. He also stated that the accident took place due to

the negligence of the truck driver, who was coming at a high speed and was driving it negligently and hitting of the Tralla from the backside in the scooter itself shows the negligence of the Tralla driver i.e. the present accused/petitioner. A perusal of the cross-examination of the complainant shows that there is nothing in the cross-examination to disbelieve his statement. There is no circumstance that Tralla was not being driven by the present petitioner. Rather, the suggestion was given that “it is correct that accident occurred, but not due to negligence or over speeding”. The witness stated that it was without honking the horn. The Courts below had discussed the evidence produced by the prosecution in minute detail. No defence witness has been examined nor any plea has been taken by accused that he was not driving the said Tralla on that day in this statement recorded under Section 313 Cr.P.C. A perusal of the judgments passed by the Courts below shows that these have been passed after appreciating the evidence in right perspective and, in no way, these judgments can be held as perverse or illegal. Both the Courts below have consistently given the findings regarding causing death by the accused in this case by driving the Tralla rashly and negligently by hitting the scooter of the complainant from the backside without blowing horn. There is nothing on the record to show that the present petitioner has been falsely implicated in this case or he is innocent.

Therefore, from the above, I find that the judgments passed by the Courts below are correct as per evidence and law which do not require any interference from this Court and the same are upheld.

Finding no merit in the criminal revision petition, the same is dismissed.

November 9, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No