

CRR-3384-2016 (O & M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3384-2016 (O & M)
Date of Decision: 27.09.2016

Shubham Dhiman

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Harmandeep Singh Sullar, Advocate,
for the petitioner.

INDERJIT SINGH, J.

Petitioner, Shubham Dhiman, has filed this revision petition against respondent, State of Punjab, under Section 401 of the Code of Criminal Procedure, 1973 challenging the judgment dated 12.08.2016 passed by learned Additional Sessions Judge, SAS Nagar, Mohali whereby learned Court has dismissed the appeal of the petitioner and upheld the judgment of conviction and order of sentence dated 21.11.2014 passed by learned Judicial Magistrate Ist Class, Derabassi whereby the petitioner was convicted under Sections 279 and 304-A IPC and sentenced as under:

<i>u/S</i>	<i>Sentence</i>
279 IPC	To undergo simple imprisonment for a period of 04 months and to pay a fine of ₹100/- and in default of payment of fine to undergo simple imprisonment for 03 days.
304-A IPC	To undergo simple imprisonment for a period of 01 year and to pay a fine of ₹200/- and in default of payment of fine to undergo simple imprisonment for 03 days.

It is mainly stated in the revision petition that both the

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impugned judgments passed by the courts below are against the law and the same are liable to be set aside.

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

The brief facts of the case, as noted down in the judgment passed by learned Judicial Magistrate Ist Class, Dera Bassi, are as under:

“2. The relevant facts of the prosecution case are that on 01.09.2010 after receiving the information from PGI Chandigarh that injured Mahinder Singh s/o Ronaki Ram r/o Sota, Distt. Ambala through CR No.872517 admitted in hospital due to injuries received in an accident, therefore, HC Jagtar Singh, the Investigating Officer (hereinafter referred to as “I.O.”) along with other police party went to PGI Chandigarh and moved an application before the doctor concerned regarding recording of fitness state of injured Mahinder Singh, and doctor declared him unfit to make the statement. Thereafter, again HC Jagtar Singh went to PGI Hospital and moved application before the doctor concerned for recording the fitness state of injured Mahinder Singh and doctor again declared injured unfit to make the statement. Again on 4.9.2010, when HC Jagtar Singh along with police party again start to go to Chandigarh to recording the statement of injured Mahinder Singh and reached near Bus Adda Lalru Mandi, complainant Sukhbir Singh s/o Swaran Singh, r/o village Majri, P.S.Sadar Ambala, Haryana, met with the police party and got recorded his statement to the effect that he is resident of above said address, passed 10+2 and now doing labour work. He married with Karamjit Kaur daughter of Lakhvir Singh, P.S.Dera Bassi. On

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31.8.2010, he alongwith father-in-law of her sister Mahinder Singh on his motor-cycle bearing No.HR-01S-3293 Marka Hero Honda, came to village of his in-laws Dhanoli and o the same day, he along with Mahinder Singh retuned from Dhanoli towards his village, then at about 1.00 P.M., when they were near Bus stand Sarsini, then from the Lalru side one Motor-Cycle being driven in a rash and negligent speed came from the back side and struck with their motor-cycle. Due to which they along with motor cycle fell down. Mahinder Singh sustained injuries on his head and other body part. He also sustained injuries. The person who caused the accident came to them. People gathered there, but driver of the motor cycle fled away from the spot along with his motor cycle. He read number of the motor cycle as UP-11 Z-4233, Marka Pulsar, and he can identify the accused when produced before him. Passersby after arranging the vehicle got them admitted in Civll Hospital, Ambala, from where Mahinder Singh was referred to Chandigarh. He was discharged after giving treatment. The accident took place due to rash and negligent driving by driver of the motor cycle. After recording the statement of complainant, offence under Section 279, 337, 427 IPC were found against the accused and ruqa sent through PHG Labh Singh, against motor cyclist. Accused was arrested on 25.09.2010. His motor cycle was also taken into police possession. During treatment, Mahinder Singh died in PGI Hospital on 30.09.20110, as such offence under Section 304-A IPC was added in the present case. Post mortem of deceased Mahinder Singh also conducted from PGI, Chandigarh. Statements of the witnesses were recorded. Post mortem report of deceased was taken into police

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possession. Documents of the vehicles were also taken into police possession. After completion of entire investigation as envisaged under Section 173 Cr.P.C, the present challan has been presented against the accused for trial.

Learned Judicial Magistrate Ist Class, Dera Bassi, after appreciating the evidence convicted and sentenced the petitioner under Sections 279 and 304-A IPC, as stated above. Aggrieved from the said judgment, the petitioner preferred an appeal before learned Additional Sessions Judge, SAS Nagar, Mohali which was dismissed vide impugned judgment dated 12.08.2016.

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

At the time of arguments, learned counsel for the petitioner mainly argued on one point that the accident took place due to rash and negligent driving of the complainant side because they turned the motor-cycle suddenly. He also prayed for reduction of sentence in alternative.

From the record, I find that both the courts below have recorded concurrent finding of fact regarding conviction and sentence of the present petitioner. At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the learned courts below. Nothing has been pointed as to how the findings given by the learned courts below are perverse or against the evidence and law. No defence evidence has been led by the petitioner to show that he was not driving the motor-cycle rashly and negligently, rather the complainant and Mahinder Singh, since deceased,

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were negligent. Furthermore, no complaint was filed to any higher authority by the present petitioner/accused regarding his false implication. No eye-witness has been produced by the petitioner before the trial Court in support of his defence. Merely giving suggestion to the complainant is not sufficient to disbelieve the case of the prosecution. The prosecution has duly proved its case by leading cogent evidence. Furthermore both the courts below discussed the report of motor-mechanic who stated that the motor-cycle of the complainant was hit from the back side which also corroborates the version of the prosecution. The revision petitioner has not disputed the accident, time and place of occurrence.

From the above discussion, I find that concurrent findings recorded by the courts below are correct and as per law, therefore, conviction of the petitioner is upheld.

So far as alternative prayer for reduction of sentence of petitioner is concerned, I find that sentence imposed upon the present petitioner under Section 304-A IPC is only simple imprisonment of 01 year. In no way, the sentence imposed upon the petitioner can be held as excessive; adequate sentence has been imposed upon him. Therefore, no ground is made out for reduction of sentence.

Finding no merit in the present petition, the same is dismissed.

27.09.2016

parveen kumar

**(INDERJIT SINGH)
JUDGE**

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