

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

CRR No.3478 of 2016 (O&M)
Date of Decision: October 24, 2016

Mahesh Kumar

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Suneel Ranga, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Mahesh Kumar against respondent State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 08.01.2016 passed by learned Judicial Magistrate Ist Class, Ambala, vide which the petitioner was convicted and sentenced to rigorous imprisonment for a period of one year under Section 304-A IPC and also challenging the judgment dated 08.07.2016 passed by learned Sessions Judge, Ambala, vide which appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against petitioner in case FIR No.361 dated 17.09.2010. The brief facts of the case as noted down in the judgment passed by learned JMJC, Ambala, are as under:-

complaint of the complainant Ex.PW3/A that he is a milk vendor. And on 16.9.2010 at about 6.30 P.M. when he was returning from village Khudda Kalan after meeting his sister then on the G.T.Road near Hari Palace two persons who were going in front of him on Honda Splendor Motorcycle bearing registration No.HR01W-4787 was hit by a truck which was driven by his driver at high speed and in rash and negligent manner. Due to which driver of the motorcycle and pillion rider fell on the road and both got injured. Truck driver halted his truck bearing registration no.HR46-3794 and on asking the name he told his name as Mahesh Kumar son of Naresh Kumar of village Kundli, Distt. Sonipat. Thereafter, he left the truck at the spot and he ran away. Complainant knew the driver of the motorcycle as Amar Singh son of Kartar Singh and pillion rider as Karan Singh son of Kehar Singh and he took them to the General Hospital Ambala City in an Ambulance from where, they were referred to PGI, Chandigarh and Karam Singh died on reaching PGI. On the basis of complaint, FIR was registered. During investigation, accused was arrested and later on released on bail. Statement of witnesses under Section 161 Cr.P.C were recorded. After completion of the investigation and other usual formalities, challan was presented before the Court, for trial of accused under Sections 279, 337 and 304-A of Indian Penal Code.”

Learned JMIC, Ambala 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, Ambala, vide judgment dated 08.07.2016.

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 as per prosecution version, the truck was left at the spot and accused ran away. The injured as well as eye witness-complainant supported and corroborated the prosecution version.

The perusal of the record shows that there are no material contradictions or improbabilities in the version of the prosecution. The prosecution has duly

proved its case by leading cogent evidence. The identity of the accused has been duly proved. The complainant PW-3 Jagmal Singh deposed that accused stopped the truck at the spot and he seen the driver, who told his name and address, which has been mentioned in the FIR. Karam Singh died on reaching PGI, Chandigarh. The other injured also appeared as a witness to support the prosecution version.

Learned counsel for the petitioner argued regarding the discrepancy that the accused was arrested on the spot etc. I have gone through the the record. The witness was examined after 4-5 years from the date of accident and he has also stated that he does not remember some facts due to long period. There are concurrent findings given by the Courts below. As argued by learned counsel for the petitioner, the petitioner was produced by the owner of the truck before the police. There is nothing on the record to show that present petitioner was not employed on the truck.

In view of the evidence produced by the prosecution and there being no material contradictions or improbabilities in the prosecution version and statements of the PWs given consistently supporting the prosecution version and further in view of the investigation of the case and medical evidence, I find that the findings given by both the Courts below are correct, as per evidence and law. In no way, the findings can be held as perverse. 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 argued as to what illegality has been committed by the Courts below.

In view of the above discussion, I find that the impugned judgments passed by the Courts below are correct, as per law and do not

require any interference from this Court.

Therefore, finding no merit in the present revision petition, the same is dismissed.

October 24, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No