

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

**CRR No.368 of 2016 (O&M)**  
**Date of Decision: February 01, 2016**

Anil Kumar

...Petitioner

**VERSUS**

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Rajinder Singla, Advocate  
for the petitioner.

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**INDERJIT SINGH, J.**

The present revision petition has been filed by the petitioner Anil Kumar against respondent State of Punjab, under Section 401 Cr.P.C., challenging the impugned judgment of conviction and order of sentence dated 02.05.2015 passed by learned Addl. Chief Judicial Magistrate, Bathinda, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹4000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 304-A IPC and to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹1000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of fifteen days under Section 279 IPC and also challenging the judgment dated 02.01.2016 passed by learned Addl.

Sessions Judge, Bathinda, vide which appeal filed by petitioner was dismissed.

The brief facts of the prosecution case as mentioned in the impugned judgment dated 02.05.2015 passed by learned ACJM, Bathinda are as under:-

*“On 28.4.2011, telephone was received from DCR Bathinda regarding accident of Canter and scooter on Over Bridge, Dabwali Road, Bathinda. On this SI Gurvir Singh alongwith other police officials reached at the spot and found that Canter No.PB-03S-1231 was overturned at the spot and a scooter Bajaj Chetak No.PB-03F-9086 was also lying under the canter. SI Gurvir Singh reached civil hospital, Bathinda after leaving C. Ranjit Singh at the spot. Rajinder Singh alongwith other persons met the investigating officer and Rajinder Singh got recorded his statement to the effect that he is resident of House Fed Colony, Bathinda. He is posted as Senior Technician at Giani Zail Singh College, Bathinda. Today, he alongwith his neighbourer Azad Pal Singh son of Mukhtiar Singh was on evening walk on the over bridge at about 8.00 p.m as per routine. Harwinder Singh son of Sukhdev Singh alongwith his wife Veerpal Kaur and daughter Harvir Kaur was going to his house on scooter No.PB-03F-9086. In the mean time one canter came from Dabwali side and the driver was driving the canter at a very high speed and in a rash and negligent manner and he struck the same into the scooter of Harwinder Singh, due to which Harwinder Singh alongwith his family fell down and at some distance canter over turned. They reached near the canter and saw number of canter as PB-03J-1231 and driver of canter ran away from the spot. Harwinder Singh and his daughter died at the spot. Veerpal Kaur was got admitted to civil hospital, Bathinda by Sahara Club members, but Veerpal Kaur also died in the way. Accident was occurred due to high speed, rash and negligence driving of canter driver. Action be taken against the driver of the canter. After recording the statement of complainant Investigating Officer sent ruqa to the police station for registration of FIR and instant FIR was registered against unknown person. Spot was inspected and rough site plan was prepared by the investigating officer. Canter and scooter were taken into police possession. Statements of witnesses were recorded. On 29.4.2011 postmortem of dead bodies were got conducted. Search of the accused was conducted. During investigation it came out that Anil*

*Kumar son of Des Raj was driving the canter at the time of accident. On 7.5.2011 accused was arrested and released on bail. Investigating Officer also took on record the mechanical report of offending vehicle. Papers of vehicles were also taken into police possession. After completion of investigation, final report under Section 173 Cr.P.C. was presented before the Court.”*

At the time of arguments, learned counsel for the revision petitioner argued that identity of the accused has not been proved.

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

As per the impugned judgments, PW-2 Rajinder Singh has supported and corroborated the prosecution version and he has identified the accused present in the Court. The identification in the Court is a substantial piece of evidence. In the facts and circumstances of the present case, there was ample opportunity for the eye witness to see the accused-driver as the canter which the accused was driving, over-turned on the spot. It is not the case that the accused-driver after causing the accident fled away with the canter. Therefore, in the facts and circumstances of the case, both the Courts below have given the findings of conviction and sentence against the accused. As per the facts of the case, three persons have died due to the accident. The finding of fact has already been given by the Courts below and no illegality has been committed by the Courts below. In no way, the judgments and order passed by the Courts below can be held as perverse. Nothing has been pointed out as to which material evidence has been misread or which material evidence has not been considered by the Courts below. In no way, the

judgments passed by Courts below amount to miscarriage of justice.

Three persons have died in the accident and learned Appellate Court has already taken the lenient view by reducing the sentence imposed upon the petitioner. Hence, no ground is made out for further reducing the sentence.

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

**February 01, 2016**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**