

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.5081 of 2015 (O&M)
Date of Decision: January 06, 2016

Rajinder Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Kshitish Sharma, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Rajinder Singh against State of Punjab under Section 401 Cr.P.C., challenging the impugned judgment of conviction and order of sentence dated 16.01.2015 passed by learned Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months under Section 279 IPC and to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹2000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 304-A IPC and also challenging the judgment dated 25.09.2015 passed by learned Sessions Judge, Shaheed Bhagat Singh Nagar, vide which appeal filed by petitioner was dismissed.

The brief facts of the case are that challan was presented against Rajinder Singh in case FIR No.37 dated 13.03.2009 under Sections 279, 304-A and 427 IPC registered at Police Station City Nawanshahr. As per the prosecution version, on receiving telephonic message on 13.03.2009 regarding accident, ASI Manohar Lal along with police officials, went to the spot and recorded the statement of Naresh Pawar, complainant. He stated that he was going on his motorcycle for some domestic work. His cousin Tejinder Kumar was going on scooter bearing registration No.PB-32C-5231 and at about 9.30 P.M., when they reached near MR Auto Agency, a truck bearing registration No.HR-37A-0622, whose driver was driving the same in a rash and negligent manner, rammed into Maruti car and then in order to run from the spot, further rammed into the scooter of Tejinder Kumar, due to which Tejinder Kumar and Assa Ram fell on the road and succumbed to the injuries at the spot. The said scooter was even dragged by the truck for 200 yards.

Learned CJM, SBS Nagar, on the basis of the evidence produced before it, convicted and sentenced the present petitioner as stated above. An appeal was filed by the petitioner before learned Sessions Judge, SBS Nagar and the same was dismissed by learned Sessions Judge, SBS Nagar, vide judgment dated 25.09.2015.

At the time of arguments, learned counsel for the petitioner argued that both the judgments passed by the Courts below are perverse and against the evidence. The identity of the accused has not been proved and rashness and negligence have also not been

proved beyond reasonable doubt. Learned counsel for the petitioner, in the alternative, prayed for reducing the sentence.

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

From the record, I find that PW-1 Naresh Pawar has deposed as per prosecution version and identified the accused in the Court. There was sufficient time to identify the accused as he left the truck on the spot and then fled away. PW-2 ASI Manohar Lal, who was the Investigating Officer, also deposed as per prosecution version and also deposed regarding the investigation conducted by him. PW-4 Rakesh Kumar also substantiated the prosecution case regarding rash and negligent driving of the accused while driving the offending truck on the date of occurrence. He also deposed that two persons riding on the scooter died at the spot.

The perusal of the record shows that the complainant as well as the eye witness have fully supported and corroborated the prosecution version. The perusal of the record further shows that PWs have deposed regarding rash and negligent driving of the petitioner. Otherwise also, the accused-petitioner while driving the truck firstly hit the Maruti car and in order to run from the spot, rammed the truck into the scooter, due to which, Tejinder Kumar and Assa Ram received injuries and succumbed to the injuries at the spot. In no way, it can be held that rash and negligent driving has not been proved.

Furthermore, it is revision petition. The finding of fact is to be given by the Court below and both the Courts below have given

concurrent findings. The identity of the accused is also proved. PWs have identified the accused and the identification in the Court is substantive piece of evidence. In no way, it can be held that the findings given by the Courts below are perverse or against the evidence and law. There is nothing that any material evidence has not been considered or any material has been misread by the Courts below. Rather, the Courts below have appreciated the evidence in right perspective and the findings are given as per law.

Furthermore, due to rash and negligent driving of the truck by the petitioner, two persons have died on the spot, therefore, I do not find any reason or ground to reduce the sentence of the petitioner.

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

January 06, 2016
Vgulati

(INDERJIT SINGH)
JUDGE