

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.588 of 2016 (O&M)

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Date of decision:29.4.2016

Kishan Chand

...Petitioner

v.

State of Punjab

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Abhinav Gupta, Advocate for the petitioner.

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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 22.1.2016 passed by learned Additional Sessions Judge, Amritsar, vide which the appeal filed by the petitioner against the impugned judgment of conviction and order of sentence dated 7.5.2013 passed by learned Judicial Magistrate Ist Class, Amritsar, convicting the petitioner for the offences under Sections 304-A and 427 IPC and sentencing him to undergo rigorous imprisonment for one year for the offence under Section 304-A IPC and also to undergo sentence of fine of ₹500/- and in default of payment of fine to further undergo rigorous imprisonment for fifteen days for the offence under Section 427 IPC, has been dismissed.

At the time of preliminary hearing, learned counsel for the

petitioner argued that the accident took place due to the fault of the deceased and the petitioner has been wrongly convicted and sentenced by the Courts below. He argued that there was no negligence on the part of the petitioner.

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

The brief facts of the case as mentioned in the judgment of the learned Judicial Magistrate Ist Class, Amritsar, are as under:-

“Briefly, the facts of the present case as alleged by the prosecution are that the present case against the accused has been got registered on the statement of complainant – Kultar Singh to the effect that he is resident of Kapoor Nagar, Talewala Bazar, Sultanwind, Amritsar and is a goldsmith. That on 4.12.2009 as usual he along with Dalbir Singh and Harbhajan Singh (who is father in law of his elder brother Manmohan Singh) went to Pull Tara Wala on their respective vehicles for walk. After walk, Harbhajan Singh on his vehicle bearing No.PB-02-AV-7852 and he along with Dalbir Singh on Kinetic Honda bearing No.PB-02-V-6838 were coming back to their houses. Harbhajan Singh was going ahead of them. When Harbhajan Singh reached near village Sultanwind near old people home then from Kot Mit Singh side one private bus bearing No.PB-02-AQ-9548 came in rash and negligent manner and on the board of bus 'Sangast Bias' was written and the bus

driver struck the bus against the Activa Honda of Harbhajan Singh who was going on his right side. Harbhajan Singh sustained grievous injuries on his head and face and he died on the spot. The driver of the bus tried to flee from the spot, but he was apprehended by them and on interrogation he told his name as Kishan Chand. On his statement formal FIR was registered and after completion of the other necessary formalities, the challan against the accused was presented in the Court.”

A perusal of the record shows that the present petitioner, who was stated to be driver of the private bus, was apprehended by the people on the spot. On the board of bus 'Sangat Beas' was written. It is admitted case that so many persons were present, who rather apprehended the present petitioner on the spot and bus was also found on the spot. Learned counsel for the petitioner also admitted at the time of arguments that the bus was there on the spot. At the time of arguments, he took the plea that the bus was already parked and the deceased hit his Activa Honda in the bus. A perusal of the record shows that no defence witness has been examined by the accused to prove his version. The mere oral arguments regarding this defence are insufficient. Further more, the statement of the eye witness proves that the accident took place due to rash and negligent driving of the bus driver. There is nothing on the record to show that the accident took place due to the negligence of the deceased, who was on Activa Honda scooter. The findings of fact have already been given by the two Courts

below concurrently. Nothing has been pointed out as to how these findings are perverse or which material evidence has been misread by the Courts below. Nothing has been argued that which material evidence has not been considered by the Courts below.

This is a revision petition and this Court is not to re-appreciate the evidence like a Court of an appeal as nothing has been shown as to how the findings are perverse or against the evidence nor it has been pointed out that any material evidence has been misread by the Courts below etc. Therefore, the findings given by the Courts below are correct as per evidence and law which do not require any interference from this Court. The petitioner has been sentenced only to undergo rigorous imprisonment for one year under Section 304-A IPC and sentence to pay fine of ₹500/- under Section 427 IPC. The sentences awarded by the trial Court, in no way, can be held as excessive.

Therefore, from the above discussion, I find no merit in the present petition and the same is dismissed. The conviction and sentence imposed upon the petitioner are upheld.

April 29, 2016.

(Inderjit Singh)
Judge

hsp