

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

**CRR No.2340 of 2008 (O&M)
Date of Decision: May 23, 2017**

Balbir Singh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.S.Mamli, Advocate
for the petitioner.

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Balbir Singh against respondent State of Haryana, challenging the impugned judgment of conviction dated 19.01.2005 and order of sentence dated 20.01.2005 passed by learned Judicial Magistrate Ist Class, Tohana, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three months under Sections 279 and 337 IPC each; to undergo rigorous imprisonment for a period of six months under Section 338 IPC and further to undergo rigorous imprisonment for a period of one year and to pay fine of ₹200/- under Section 304-A IPC and also challenging the judgment dated 23.09.2008 passed by learned Addl.

Sessions Judge, Fatehabad, vide which appeal filed by petitioner was

dismissed. All the sentences were ordered to run concurrently.

From the record, I find that the challan was presented against petitioner in case FIR No.17 dated 11.01.1996. The brief facts of the case as noted down in the judgment passed by learned JMIC, Tohana, are as under:-

“1. The brief facts of the prosecution case are that one doctory ruqa of Bhagwan Dass, Ashok Kumar, Ved Parkash, Harvinder Singh, Bakru Ram, Daya Nand, Kalu Ram, Lachman Dass and Babli etc., was received from General Hospital Tohana, then police party rushed to General Hospital Tohana where statement of complainant Laxman Dass s/o Diwan Chand was recorded which are as under:

“That he is resident of village Akanwali and is a labourer. Babli s/o Ladhu Ram is married in village Akanwali for the last 3-4 years and a dispute was going on in between Babli with his wife and a complaint was made by girl in the Nodel Cell,Hisar, regarding which on 11.01.96 at about 9.00 O'clock, he, Kalu Ram s/o Chander Bhan, Ashok s/o Ladhu Ram, his father Diwan Chand s/o Lal Chand, Ram Chander s/o Diwan Chand, Ved Parkash s/o Dadhu Ram, Bakru s/o Tota Ram, Babli s/o Ladhu Ram, Ram Lubhaya s/o Budh Ram Suriya Ram w/o Diwan Chand, Sabhash s/o Keshar Bhagwan Dass s/o Dhalu Ram Gurnam Singh, Dy. Sarpanch Harvinder s/o Makhan Singh all residents of village Akanwali reached at Tohana for going Nodel Cell Hisar and were going in commander Jeep bearing No.DL-5CA-8030 driven by Daya Nand s/o Amar Chand, Damkaur Raod Tohana and at about 10.30 a.m. when they reached near village Kanheri, then one truck bearing No.PB-07/1945 driven by its driver in a rash and negligent manner came from front side and then jeep driver tried to cross then truck strucked into their jeep and all the passengers sitting in the jeep received injuries on their persons. His father Diwan Chand, Ram Chand s/o Diwan Chand, Ram Lubhaya s/o Budh Ram died at the spot. One canter came from Uklana side and same was got stopped and all the injured were taken in that canter to Civil Hospital Tohana. During transaction Gurnam Singh s/o Nachhater Singh also died due to injuries received on his person. The driver of truck No.PB-07/1945 drove his truck in a rash and negligent manner and caused accident with Jeep No.DL-5CA/8030. He can identify the driver of truck, hence, legal action be taken.”

2. On receipt of ruqa, investigation was commenced. After going through the facts as well as after going through the MLR and PMRs, formal FIR of present case was got registered. Site plan was prepared. Statement of witnesses were also recorded. Accused was arrested. On completion of investigation, challan against accused was presented and sent it to Court for putting him on trial.”

In support of its case, prosecution examined PW-1 Lachhman Dass, PW-2 Harwinder Singh, PW-3 Ved Parkash, PW-4 Daya Chand, PW-13 Babli, PW-18 Kalu Ram, PW-19 Bakru and PW-20 Gurnam Ram, who were complainant and eye witness to the occurrence. PW-19 and 20 have not supported the prosecution version and turned hostile. PW-18 partly supported the prosecution version. However, other PWs have supported the prosecution version. Other witnesses are mainly official and formal witnesses.

Learned JMIC, Tohana, 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 Addl. Sessions Judge, Fatehabad, vide judgment dated 23.09.2008.

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

At the time of arguments, learned counsel for the petitioner argued that PW-19 and PW-20 have not supported the prosecution case and rather, PW-18 in cross-examination, supported the defence version of the accused.

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

First of all, I find that if two witnesses have not supported the

prosecution version or won over by the accused or turned hostile, it is not fatal to the prosecution case. I have gone through the statement of the accused recorded under Section 313 Cr.P.C. The accused has not taken any defence that he was not negligent or the driver of the jeep was negligent. No defence witness has been examined to prove that jeep driver was negligent. Other PWs like PW-1, 2, 3, 4 and 13 have supported the prosecution version. Nothing has been pointed out at the time of arguments as to how the statements of these PWs are not reliable or not to be relied upon. No material discrepancies, contradictions or improbabilities have been pointed out. Nothing has been pointed out as to how the findings given by learned Courts below are perverse or against the evidence and law. 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.

Learned trial Court has considered this fact that if one or two witnesses turned hostile, it cannot be held as fatal to the prosecution case. Other PWs who are complainant and injured eye witnesses have consistently deposed as per prosecution version.

In view of the above discussion, I find that rash and negligent driving of the present petitioner is duly proved by the witnesses. At the time of arguments, learned counsel for the petitioner has also not contested qua identity of the accused. Otherwise also, PWs have identified the accused and identity has been duly proved by the PWs.

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

As petitioner Balbir Singh is on bail, his bail bonds stand

cancelled and he is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing which the concerned authority shall proceed against him in accordance with law.

May 23, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No