

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

CRR No.2673 of 2008

Date of decision: 9th October, 2017

Sajjan Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. N.S. Shekhawat, Advocate for the petitioner.

Mr. Nischal Mann, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

Petitioner Sajjan Singh was initially tried by the Court of learned Additional Chief Judicial Magistrate, Rewari in case bearing FIR No.259 dated 24.07.1998 under Sections 279/304A IPC pertaining to Police Station City Rewari and through judgment and order of sentence dated 07.12.2006, was sentenced as follows:

Under Section 279 IPC: To undergo rigorous imprisonment for a period of six months.

Under Section 304A IPC: To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2000/- and in default of payment of fine to further undergo rigorous imprisonment for three months.

His appeal against conviction too was dismissed by the Court of learned Sessions Judge, Rewari through impugned judgment dated 06.12.2008 and that is how the petitioner is before this Court in this revision.

Heard Mr. N.S. Shekhawat, Advocate for the petitioner; Mr.Nischal Mann, Deputy Advocate General, Haryana on behalf of the respondent/State and perused records of the case.

Allegations in brief against the petitioner are that on 24.07.1998 ASI Shri Krishan received telephonic message that in a roadside accident, injured have been shifted to Government Hospital, Rewari and on arrival at the hospital the police official was informed as to the death of injured Hitesh Kumar (hereinafter referred to as, 'the deceased'). The Investigating Officer recorded statement of the complainant Devender by way of PW4/A wherein the complainant alleged that he was a student of Government Senior Secondary School, Rewari studying in Class 11th where the deceased too was his class-fellow and while they were present at the Jhajjar Chowk, Rewari, a bus bearing registration No.HR-36PA-0132 (in short, 'the offending bus') of Haryana Roadways came being driven by the accused petitioner Sajjan Singh in a rash and negligent manner and hit the deceased running its front tyres upon the deceased. On the basis of this statement, the FIR in question was got registered and upon completion of investigation challan was presented. Prosecution examined ten witnesses. The accused in his stand under Section 313 Cr.P.C. denied the allegations and in his defence

examined DW1 Dinesh Draftsman to prove site plan Ex.DW1/A leading to judgment of conviction.

Contentions of learned counsel for the petitioner are that the petitioner has never been identified nor any test identification parade got conducted and has sought to place reliance on '**Rameshwar Singh v. State of J&K**' 1972 AIR (SC) 102; '**Sunder @ Surinder v. State of Haryana**' 1999(2) RCR (Criminal) 554; '**Mazid v. State of Haryana**' 2008(2) RCR (Criminal) 439; '**Kartar Chand v. State of Punjab & another**' 2013(3) ACC 367; and '**Rajeev Kanojia v. State of U.T.**' 2014(5) Law Herald 4632.

Arguments of learned counsel for the petitioner have been opposed tooth and nail by learned State counsel on the grounds that it is never stand of the petitioner in his statement under Section 313 Cr.P.C. or during cross-examination of any of the witnesses and rather Duty Clerk and Inspector of the Depot certainly proves that the offending bus was under the petitioner who was its driver on the fateful day.

Going through these submissions, Khushi Ram Duty Clerk of the Haryana Roadways Depot Rewari appearing as PW1 who proved duty slip Ex.PW1/A, has categorically proved the duty of the petitioner Sajjan Singh upon the bus in question on the day of accident and to further lend corroboration to this witness, PW2 Jagdish Chand, Inspector of the Haryana Roadways Depot has testified it so and nothing by way of cross-examination has been put to both these witnesses to elicit the defence of the accused petitioner. Furthermore, even in his statement

under Section 313 Cr.P.C. it is not the case of the petitioner that he never happened to be driver of the offending bus or was not on duty on the day of occurrence, are matters which certainly have strong bearing on the case of the petitioner and rather to the mind of this Court such a defence is clearly a belated and afterthought plea. More so, the eye witness account given by PW5 Davender who happens to be the class-fellow of the deceased and was waiting at the place of occurrence for a bus, certainly establishes the probability of presence of this witness at the time of the accident. This witness in examination in chief has categorically stated name of the petitioner to be the driver of the offending bus. Learned counsel for the petitioner could not deter the truthfulness of this witness by any means. It is the own case of the owners of the offending bus through PW2 Jagdish Chand Inspector of the Haryana Roadways that the bus was taken on sapurdari and which after the accident, was taken into possession through PW3 Constable Mahipal. Thus, in the light of this clinching evidence, the first leg of submissions of learned counsel for the petitioner falls to the ground.

The second and the only other submission made by learned counsel for the petitioner revolves around the fact that PW5 Devinder is a partisan and interested witness and since the accident had admittedly taken place in an open public place, some independent witness ought to have been examined by the prosecution and which is controverted by the learned State counsel on the grounds that it is the quality which matters and not the quantity.

In the light of these arguments, the very presence of PW5 complainant Davender at the time of accident is very natural and probable being both class-fellows having come to the place to catch a bus and therefore, he appears to the mind of this Court to be the most natural and probable witness, together with the fact that as is there, people from public rarely come forward to testify for obvious reasons. More so, as has been observed by the trial Court this young witness, a school going boy, had testified in the most natural manner and had been a truthful and reliable witness. Merely because a single witness has been examined by the prosecution does not deter the Court to accept his testimony, if otherwise found to be truthful and his veracity cannot be doubted. Thus, even this submission by learned counsel for the petitioner does not impresses the Court.

Learned counsel for the petitioner has at the end prayed for showing leniency to the petitioner submitting that if he is sent behind bars will ruin his entire career and his family will be left to fend for itself and which is opposed by learned State counsel.

Keeping in view that the petitioner by his gross negligent rash act and the manner of the accident whereby facial portion of the boy has been crushed under the wheels of the bus, is rather suggestive of the manner in which the bus was being driven, together with the ever growing incidents of accidents on the Indian roads, certainly is a deterring factor to allow such a concession of leniency. The petitioner certainly is not entitled to concession of probation or leniency in the

sentence awarded by the trial Court, nor there is any extenuating circumstance. The impugned findings certainly are correct appreciation of law and facts and do not suffer from any illegality or perversity. The petition being hopelessly without merit stands dismissed. Records be sent back.

(FATEH DEEP SINGH)
JUDGE

October 9, 2017
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No