

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

CRR-1515-2009

Date of decision:-21.11.2017

Satpal Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Rakesh Nagpal, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This revision petition is directed against the judgment and order dated 14.6.2006 passed by Additional Chief Judicial Magistrate, Rohtak vide which she had convicted accused Satpal Singh for the offences under Sections 279 and 304-A IPC and sentenced him to undergo simple imprisonment for a period of six months for the commission of offence under Section 279 IPC and to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- for the commission of offence under Section 304-A IPC and in default of making of payment of fine, he shall undergo simple imprisonment for one

month, both the sentences were ordered to run concurrently, as well as judgment dated 22.5.2009 passed by Additional Sessions Judge (Ad hoc), Fast Track Court, Rohtak vide which the said judgment was affirmed and appeal filed by the accused – convict was dismissed.

The accused-convict – Satpal Singh, who is petitioner before this Court prays that the revision be accepted, the impugned judgment of his conviction and order of sentence by Additional Chief Judicial Magistrate, Rohtak and judgment in appeal by Additional Sessions Judge (Ad hoc), Fast Track Court, Rohtak be set aside and he be acquitted of the charge framed against him.

Briefly stated, the facts of the case as per prosecution story are that on 12.12.2008, complainant Virender Singh Dhull son of Ram Dass, resident of village Kinana, District Jind, a practicing Advocate at District Court Jind along with his cousin brother Rakesh had gone to village Azadgarh to attend a marriage function; that the marriage party had stayed in a *KOTHI* built in the fields adjacent to bye-pass road; that on 12.12.1998 at 5:00 p.m., when the marriage procession was leading towards village Azadgarh and had reached near Bansal General Store, a bus bearing registration No.HR-22PA-0212 being driven in a rash and negligent manner by its driver came there from Delhi side and it hit Ashish, nephew of the complainant, as a result he fell down and rear tyre of the bus passed over him; that in the process Ashish got crushed; that the driver of the bus did not stop the bus and rather sped it away; that the bus was chased and came to halt at Sukhpura Chowk; that the driver disclosed his name as Satpal son of Lalji, resident of village Kheri

Masana and he managed to run away; that the injured was taken to hospital but was declared brought dead; that post-mortem examination on the dead body was got conducted. After registration of the formal FIR, the matter was investigated, the accused was arrested in this case and released on bail since the offences happened to be bailable.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court of Area Magistrate, copies of documents relied upon in the challan were supplied to the accused free of costs as provided under Section 207 Cr.P.C.

Learned Additional Chief Judicial Magistrate, Rohtak finding that charge for offence under Sections 279 and 304-A IPC was disclosed against the accused, charge-sheeted the accused for the said offences, to which, he pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as eleven witnesses as per details below:

PW1 ASI Jai Singh, an attesting witness of seizure memo Ex.PA vide which offending bus had been seized on 22.12.1998 deposed in that regard.

PW2 Virender Singh, complainant deposed about factum of accident and about death of his nephew Ashish but he did not say anything regarding registration number of the offending bus and so also regarding the accused. He was declared a hostile witness.

PW3 HC Hazari Lal had carried out mechanical examination

of the offending bus in question proving his report as Ex.PW3/A.

PW4 Ram Kunwar had identified the dead body of Ashish during inquest proceedings.

PW5 Anand son of Hawa Singh provided an eye-witness account of the incident supporting the prosecution story on material aspects.

PW6 SI Maha Singh deposed regarding registration of formal FIR Ex.PW6/A on receipt of ruqa Ex.PW2/A.

PW7 ASI Sant Ram, the Investigating Officer who had carried out the investigation in this case deposed in that regard proving various documents.

PW8 Kishan Chand, Conductor, an attesting witness of memo Ex.PW7/C testified in that regard.

PW9 Ishwar Singh, Deputy Inspector, Tohana stated that as per Duty Certificate Ex.PI, accused was driver of the bus on 12.12.1998.

PW10 Bijender Singh provided eye-witness account of the accident supporting the prosecution version.

PW11 Dr. R.K. Chaudhary, who had conducted post-mortem examination on the dead body of Ashish deposed in that regard proving post-mortem report Ex.PW11/A, further proving Ex.PW7/B and inquest report Ex.PW11/B.

Thereafter, the prosecution evidence was closed by Court order.

Statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against

him were put to him but he denied the allegations contending that he is innocent and had been falsely involved in this case.

Accused did not lead any evidence in his defence.

After hearing arguments, learned Additional Chief Judicial Magistrate, Rohtak convicted and sentenced the accused as mentioned supra, the appeal preferred against the judgment of conviction and order of sentence passed by the Additional Chief Judicial Magistrate, Rohtak was also decided against the accused by learned Additional Sessions Judge (Ad hoc), Fast Track Court, Rohtak, which left petitioner – accused Satpal Singh aggrieved and he has filed the present revision petition.

I have heard learned counsel for the petitioner-accused-convict and learned Assistant Advocate General for the State of Haryana besides going through the record and I find that there is no merit in the revision petition.

After hearing the rival contentions, I find that law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse. Merely because another view in the matter is possible, no inference with such judgment is to be done.

Here of the three eye-witnesses cited by the prosecution, PW5 Anand and PW10 Bijender Singh fully supported the prosecution story as regards the accused being author of the accident due to rash and negligent driving of the bus. They were cross-examined at length on behalf of the accused but they stuck to their guns and could not be

shattered on material contents. I find presence at the spot of both the witnesses to be likely and probable and account given by both of them to be worthy of reliance.

As regards complainant Virender Singh not fully supporting the case of prosecution, that does not make much difference since even if we ignore his statement there is enough cogent, convincing, reliable eye-witness account of the incident provided by PW5 Anand and PW10 Bijender Singh, which can certainly form basis for conviction of the accused. The complainant has not supported the prosecution story on all the aspects but on some important points, he did lend corroboration to the prosecution version. The maxim *falsus in uno falsus in omnibus* i.e. false in part, false in whole is not made applicable by the Courts in India, rather the Courts are required to separate grain from the chaff i.e. truth from the falsehood. Merely because a witness has deposed wrongly regarding certain aspects of the case does not mean that his statement is to be discarded outrightly, if his deposition comes out to be convincing and inspiring confidence regarding other aspects. This witness did state regarding death of his nephew in a road side accident. It appears that he had entered into some sort of understanding with accused and for that reason did not support the prosecution story fully.

The medical evidence duly supports the ocular evidence. The investigation in this case has been conducted in a fair and impartial manner. The Investigating Officer had no reason to involve the accused in this case wrongly, challaned him falsely or to depose against him to secure his conviction. The other evidence adduced by the prosecution

supports its version. The accused had failed to render any reasonable or plausible explanation for his alleged false implication in this case. The accused is specifically named in the FIR. Even otherwise from statement of PW9 Ishwar Singh, Deputy Inspector, Tohana, it comes out that it was the accused, who was on duty in the offending bus as its driver at the relevant time.

Learned counsel for the petitioner has contended that since the deceased was run over by the rear tyres of the bus that goes to show negligence of the deceased himself, whereas this plea is controverted by learned State counsel contending that as is clear from the deposition of the eye-witnesses, it was accused who by rashly and negligently driving the bus had caused the accident. Even otherwise, the accused driver driving the bus on a public way should have taken care that no human being suffered injury or got killed in the accident as a result of faulty driving on the part of the bus driver. There is nothing on record to show that deceased himself was at fault, rather it comes out that the blame lies on the shoulders of the accused for causing the accident.

I find that both the Courts below on appreciation of evidence have reached a firm conclusion that rash and negligent driving of the offending bus by accused Satpal Singh was direct and proximate cause of the accident resulting in death of Ashish. The approach of the trial Court in arriving at this conclusion can certainly be not faulted and the conclusion arrived at by it cannot be termed to be perverse. Rather it comes out that the accused was driving the bus on a public way in a dare devil manner throwing caution to the winds not caring for the lives of the

other commuters on the road. He failed to exercise care and caution expected to him while driving the bus on the public way and by his such wrongful driving caused the accident in which Ashish, an innocent person had lost his life.

The prosecution had successfully proved its charge against the accused beyond the shadow of reasonable doubt. The courts below were justified in reaching such conclusion. The conviction of the accused for such offences does not call for any interference.

The learned counsel for the revision petitioner has prayed that sentence of the accused – convict be reduced keeping in view the fact that he is a first offender, a poor man and sole bread winner of his family. However, this request has been opposed by learned State counsel.

I on my part feel that the accused by rash and negligent driving of the bus had caused death of a young human being. The roads are proving to be killing grounds for the reasons that many vehicle drivers drive thereon in a dare devil manner throwing caution to the winds, not caring for safety and security of the other commuters on the road and such type of elements have to be dealt with sternly otherwise there would be more instances of causalities due to road side accidents. In this case, no leniency can be shown to the accused – convict. The request in that regard is declined.

In view of the above, I find no illegality or infirmity in the judgments passed by the Courts below, as regards the conviction and sentence part, those are upheld and revision is found to be without any merit and is dismissed accordingly.

Satpal Singh – petitioner/accused is stated to be on bail granted to him by this Court while suspending his sentence. His bail is cancelled. Chief Judicial Magistrate, Rohtak is directed to issue arrest warrant to get him arrested so as to make him undergo the remaining sentence.

21.11.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : **Yes/No**

Whether reportable : **Yes/No**