

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

**CRR No.2266 of 2009 (O&M)
Date of Decision: February 20, 2017**

Naresh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.N.S.Shekhawat, 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 Naresh against respondent State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 27.11.2007 passed by learned Judicial Magistrate Ist Class, Mohindergarh, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three months under Section 279 IPC and further to undergo rigorous imprisonment for a period of one year under Section 304-A IPC and also challenging the judgment dated 19.08.2009 passed by learned Sessions Judge, Narnaul, vide which appeal filed by petitioner was dismissed. Both the sentences were ordered to run concurrently.

From the record, I find that the challan was presented against

petitioner in case FIR No.45 dated 13.02.2001. The brief facts of the case as noted down in the judgment passed by learned JMJC, Mohindergarh, are as under:-

“2. Precisely stated, facts of prosecution as stated in statement of complainant Rajbir son of Suman are such that on 12.2.2001 complainant alongwith Ramanand son of Raghubir, his family members and Vijender son of Pehlad was returning to his village Pali by riding on tractor bearing registration No.HR34/8847. This tractor was driven by Naresh son of Rattiram resident of Pali. Complainant and his other companions were returning to their village after making prayer in the temple of Pirbaba. When tractor of complainant party hardly cross ½ kilometer the bridge of canal towards Pali, then complainant saw Deshraj son of Ladhu who was walking at his foot by the side of road. Driver of offending tractor was driving the vehicle at high speed in rash and negligent manner. It collided by one side, the body of deceased Deshraj who was knocked down by one side tyre and later on he succumbed to the injuries when conveyed to CHC Mohindergarh. As per complainant accident occurred due to negligence of Naresh son of Rattiram. On complaint Ex.PW2/A FIR under section 279/304A IPC against accused was lodged. Investigation was initiated. I.O. prepared site plan and recorded the statement of witnesses. Accused was arrested. Offending tractor was taken into police custody vide recovery memo. After completion of investigation, challan was filed before the court for trial under section 173 Cr.P.C.”

The accused was charge-sheeted under Sections 279 and 304-A IPC, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Bijender Singh, PW-2 Rajbir, PW-3 Ramanand, PW-4 Dr.Gajraj Singh, PW-5 Head Constable Hari Ram, PW-6 SI Mahabir Parsad, PW-7 Makhan Singh and PW-8 Om Parkash.

Statement of the accused under Section 313 Cr.P.C. was recorded. He denied the correctness of the evidence and pleaded himself as innocent. In defence, accused examined DW-1 Bahadur Singh and DW-2

Learned JMIC, Mohindergarh, 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 Sessions Judge, Narnaul, vide judgment dated 19.08.2009.

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

Lower court record was requisitioned and received.

At the time of arguments, learned counsel for the petitioner argued that petitioner has been falsely implicated in this case and no negligence has been proved. He further argued that eye witnesses are not reliable as they were not present on the spot. He further contended that present petition should be accepted.

On the other hand, learned State counsel argued that the prosecution has duly proved its case beyond reasonable doubt. There are no material improvements in the statements of the witnesses. He further argued that PWs have duly proved the case against the accused and the petitioner has been rightly convicted and sentenced.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record, especially the judgments passed by the Courts below.

The perusal of the record shows that PW-1 Bijender has deposed consistently regarding the occurrence. The name of the accused-petitioner has been mentioned even in the FIR, who was driving the tractor trolley. The perusal of the record shows that there is nothing in the cross-examination to disbelieve the statement of PW-1, though PW-2 Rajbir and

PW-3 Rama Nand, have not supported the prosecution version. The

prosecution has duly proved its case by examining PW-1 Bijender, who consistently deposed regarding the prosecution version. There is nothing in the cross-examination of this witness, which may make his statement unreliable. The statement of PW-1 is duly supported by medical evidence. Though, DWs have stated that no accident took place in their presence, but much reliance cannot be placed on their statements, as both the defence witnesses were not present on the spot as deposed in the cross-examination.

Further, I find that both the Courts below have given concurrent findings. In no way, the findings can be held as perverse or against the evidence. There is also nothing to show that findings given by the Courts below are illegal or against the law. The identity of the accused has been duly proved. The fact that tractor trolley hit the pedestrian itself shows that the tractor trolley was being driven rashly and negligently. Otherwise also, PW-1 has also deposed regarding rash and negligent driving of tractor trolley by the accused-petitioner.

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. The perusal of the record shows that the findings have been given after appreciating the evidence in right perspective. Both the Courts below have given concurrent findings qua the guilt of the case. This is a revision petition and this Court is not to re-appreciate the evidence like Court of an appeal.

In view of the above discussion, I find that the impugned judgments passed by the Courts below are correct, as per evidence and law and do not require any interference from this Court.

Therefore, finding no merit in the present revision petition, the

same is dismissed.

As petitioner Naresh 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.

February 20, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No