

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 185 of 2010 (O/M)
Date of decision : 12.10.2017

Jai Parkash

..... Revisionist

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. J.S. Mehndiratta, Advocate, for revisionist.

Mr. R.K. Makkad, DAG Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

This revision is filed against judgment dated 29.10.2009, passed by the learned Additional Sessions Judge (Fast Track Court), Hisar, affirming judgment of conviction dated 13.9.2007 and order of sentence dated 14.9.2007, passed by the learned Judicial Magistrate 1st Class, Hisar, vide which revisionist was convicted under Sections 279 and 304-A IPC and was sentenced to undergo rigorous imprisonment for six months under Section 279 IPC and fine of Rs. 500/-, in default thereof, to further undergo simple imprisonment for 15 days. He was also sentenced to undergo rigorous imprisonment for one year under Section 304-A IPC and fine of

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Rs. 500/-, in default thereof, to further undergo simple imprisonment for 15 days. Both the sentences were directed to run concurrently. The appeal filed against said judgment was dismissed by the learned Additional Sessions Judge (Fast Track Court), Hisar, vide judgment dated 29.10.2009.

I have heard the learned counsel for revisionist, the learned State counsel and have also carefully gone through the lower Court file.

As per the prosecution case, Yogender Pal, who happens to be a lawyer by profession, was standing outside his residence on 6.6.1999. At about 7:30 PM, he saw that a child, namely, Parth, aged about 6 years, was going on a bicycle towards Surya Nagar through Jindal Chowk. A truck bearing registration No. HRH-8575, being driven in rash and negligent manner by revisionist came from behind and hit the said child with the left rear tyre of the truck, as a result of which, the child died at the spot. The truck driver left the truck at the spot after locking it and ran away. One Mukesh son of Chandi Ramani also came at the spot.

During the trial, Yogender Pal (complainant) stood by his statement and stated that when they were taking care of the child, the truck driver had come at the spot and that he recognizes him as the said truck driver, who is present in Court and identifies him.

The learned counsel for revisionist contends that the other witness Mukesh had not identified the truck driver and that the identification by revisionist in the Court cannot be made the basis of conviction. It is contended that Nathu Lal, who appeared as PW, had turned hostile. The owner of the truck was not examined. Therefore, the identity of revisionist is not proved.

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I am of the view that in the present circumstances, it can be safely held that the identity of revisionist being the driver of offending truck has been duly proved. When revisionist was arrested and facing trial, he did not make any complaint against false implication. In the statement recorded under Section 313 Cr.P.C., he did not plead that he was not the driver of the truck. He simply claimed that he is innocent. Yogender Pal (complainant) is otherwise an independent and uninterested witness. His house is situated just opposite the place of accident and it was by chance that he was standing outside his residence and being a dutiful citizen, he came forward to make the statement. It is specifically stated in the FIR that the truck driver ran away after locking the truck, which means that it took sometime for the truck driver to lock his truck before running away from the spot after finding that child has died. In this way, the statement of Yogender Pal (complainant) can be safely believed.

The learned counsel for revisionist has further argued that the boy was driving a bicycle having supports and might have come from the left side and hit the rear side of the truck. There was a speed breaker just ahead of the truck. The truck was loaded with gravel.

I am of the view that there is no evidence to show that the boy came from the left side and hit the rear side of the truck. Yogender Pal (complainant) had specifically stated that the truck came from behind and it appears that after slightly taking over the young cyclist, the truck might have took a left turn, with the result that rear tyre hit the cycle of the child and he fell down on the road. There is no illegality or infirmity in the findings recorded by both the Courts below. There is no ground to reduce the sentence as well. Hence, revision is dismissed. Revisionist, who is on

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bail, be re-arrested and sent to jail to undergo the remaining part of sentence.

(KULDIP SINGH)
JUDGE

12.10.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No