

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 1321 of 2011 (O/M)
Date of decision : 1.9.2017

Vijay Kumar @ Billa

..... Revisionist

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Kiran Bala Jain, 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.

This is revision against the judgment dated 20.5.2011, passed by the learned Sessions Judge, Ambala, affirming that of the learned Chief Judicial Magistrate, Ambala, dated 22/23.12.2009, vide which present revisionist was convicted for offences under Sections 279 and 304-A IPC and was sentenced to undergo rigorous imprisonment for six months and fine of Rs. 500/- under Section 279 IPC and rigorous imprisonment for one year and fine of Rs. 1,000/- under Section 304-A IPC. In default of fine, he shall further undergo rigorous imprisonment for three months. Both the sentences were directed to run concurrently.

Brief facts of the case are that Ram Lochan Gupta (PW2), who is resident of Chandigarh, planned to go to his native village Basawa in Bihar. On 27.3.2001, at 8:00 PM, he alongwith Hari Gupta, Hari Yadav and Dinesh Yadav left Chandigarh for Ambala Cantt. on two separate motorcycles. Ram Lochan Gupta was driving motorcycle bearing

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registration No. HR61-HQ0221T and his brother Hari Gupta was pillion rider. Dinesh Yadav was driving another motorcycle bearing registration No. AS06/4149 and Hari Yadav was the pillion rider. At about 9:30 AM, when they reached near Jail Bridge, Ambala Town, and going towards Ambala Cantt, a bus bearing registration No. HR37-1540 came from behind and after crossing the motorcycle of Ram Lochan Gupta run over the motorcycle of Dinesh Yadav with its left tyre. The left tyre of the bus crushed the head of Dinesh Yadav and he died at the spot. Hari Yadav received injuries. The bus driver left the bus at the spot and ran away. Injured Hari Yadav was removed to hospital. On the statement of Ram Lochan Yadav (Ex.PW2/A), a case under Sections 279 and 304-A IPC was registered at Police Station Baldev Nagar, Ambala.

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

The learned counsel for revisionist has argued that in this case, the Investigating Officer was not examined. Therefore, it is not proved that revisionist was driving the offending bus. It is further argued that even from the statement of witnesses, namely, Ram Lochan Gupta (PW2) as well as Hari Yadav (PW3), the identity of present revisionist is not proved.

I am of the view that the identity of the bus is proved as the accused left the bus at the spot and ran away. The number of the bus is mentioned in the inquest report and other documents. The photographs on file though not exhibited also show the presence of the bus. The presence of bus is established from the statement of Ram Lochan Gupta and Hari Yadav, eye witnesses,. Hari Yadav was injured in the accident.

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Regarding the identity of accused, Ram Lochan Gupta, when examined in the Court has clearly stated in examination that accused present in the Court was the person, who was driving the said bus. During cross examination, he clarified that he had seen the driver of the bus today in the Court and three years earlier also in the Court. His statement further shows that accused is the person who was driving the bus at the time of accident. Hari Yadav (injured) has also stated in cross examination that accused present in Court was driving the said bus. He has clearly stated that the bus had hit the motorcycle of deceased Dinesh Yadav. During cross examination, he stated that he never seen the bus driver.

I am of the view that when the statement of eye witnesses Ram Lochan Gupta as well as Hari Yadav (injured) is read together, it comes out that both of them have stated that they identified the accused as the same person who was driving the bus.

I am of the view that in the given circumstances, the identity of the accused is also established. Therefore, even if the investigating officer or photographer is not examined, the prosecution case is proved. There is no misreading of evidence, nor any interference is warranted in the findings recorded by the two Courts below.

The learned counsel for revisionist has prayed for leniency in the matter of sentence.

I am of the view that in this case, the head of a young man of 21/22 years was crushed in the tyre of the offending bus. The sentence awarded is rigorous imprisonment for one year under Section 304-A IPC against the maximum sentence of two years. Hence, the sentence cannot be called excessive. Hence, there is no ground to reduce the sentence also.

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In view of the foregoing discussion, present revision is dismissed. Revisionist, who is on bail, is ordered to be re-arrested and committed to jail to undergo the remaining sentence.

(KULDIP SINGH)
JUDGE

1.9.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No