

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

**Criminal Revision No.2526 of 2011  
Date of Decision:-09.11.2017.**

Neena @ Mehran @ Imran

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM:- HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present:- Mr. Vijay Kumar Jindal, Advocate  
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

**FATEH DEEP SINGH J.**

Aggrieved over his consecutive inability to secure a favourable order, the present revision-petitioner convict Neena @ Mehran @ Imran, after he was initially found guilty by the Court of Learned Additional Chief Judicial Magistrate, Panipat through judgment dated 13.1.2010 in case bearing FIR No.109 dated 2.7.2002, under Sections 279, 337, 304-A IPC, registered at Police Station Sadar, Panipat was held guilty for commission of offences under Sections 279, 337 and 304-A IPC. He was thus sentenced as follows :-

| <i>Name of Convict</i> | <i>Conviction under Sections</i> | <i>Imprisonment in R.I.</i> | <i>Fine in Rs.</i> | <i>In default of payment of fine S.I.</i> |
|------------------------|----------------------------------|-----------------------------|--------------------|-------------------------------------------|
| Neena @                |                                  |                             |                    |                                           |
|                        | 279 IPC                          | 6 months                    | 500                |                                           |
| Mehran @               | 337 IPC                          | 6 months                    | 500                |                                           |
| Imran                  | 304-A IPC                        | 1 ½ years                   | 1000               | 2 months                                  |

His subsequent appeal impugning this conviction stood dismissed vide judgment dated 28.9.2011 by the Court of learned Additional Sessions Judge upholding the findings of the trial Court. The revisionist has now sought to try his luck before this Court by the instant revision petition.

Upon hearing Shri V.K. Jindal, Advocate counsel for the petitioner and on perusal of the records. The allegations and implications of the prosecution against the convict are that on 2.7.2002 upon receipt a ruqa from General Hospital, Panipat where injured Raj Rani Bhatia was admitted as a consequence of roadside accident, ASI Jai Singh went to the Hospital and recorded her statement, wherein she said that on the alleged date she alongwith her colleague Smt. Litesh was going to their school in a jeep bearing registration No.HR39 5610 in which 10/12 other passengers were sitting and which was being driven by the petitioner in a rash and negligent manner and inspite of best endeavour of the passengers asking the accused to drive the vehicle carefully, the petitioner failed to take requisite steps and took a sharp cut rashly and negligently hitting a roadside tree resulting in accident leading to four deaths. Upon completion of investigation and submission of challan at the trial Court, the prosecution examined PW1 Yusuf, PW2 ASI Satpal, PW3 Raj Rani Bhatia and thereafter the prosecution evidence was closed by order. The accused denied the

allegations in a stand taken under Section 313 Cr.P.C. but did not lead any evidence in his defence leading to the impugned findings.

Appreciating the submissions, the first and foremost argument that has sought to be convessed by Mr. Jindal, Advocate on behalf of petitioner are that it was an act of God which led to this accident. He further stated that it was due to bursting of the front tyre of the vehicle due to which the vehicle crashed against tree resulting into deaths of Khatoon, Smt. Litesh, unknown and Sita Ram. This plea has been opposed by the State counsel that it was not the stand of the defence during the course of trial.

After going through these submissions no doubt during the course of investigation in the report of mechanic the factum of bursting of tyre has come about but as is apparent from the records, the mechanical report, which is dated 15.7.2002 has never been proved either by calling the mechanic himself or through other means leading to secondary evidence and exhibiting the same. Thus, the same is never supported by any legal means and furthermore on the other hand even the photographs of the vehicle from the frontal side belies the stand of the learned defence counsel to this effect and what is otherwise reflected from the own stand of the accused in the statement under Section 313 Cr.P.C. he never took up the said plea to set up his defence nor has led any evidence in the defence. Thus, this argument of learned counsel for the revisionist does not come to the aid of the revionist. The second leg of submission that has sought to be put further by the counsel for the revionist is that all the PWs have not been

examined by the prosecution, that has been well countered by the learned State counsel that it is the quality of the evidence rather than quantity which matters.

Appreciating the same PW1 Yousaf has categorically stated in his examination-in-chief attributing acts of rash and negligent driving and that too at high speed by the petitioner and has categorically stated that they tried to stop him from doing so and this witness has never been cross-examined and furthermore the other witness is Raj Rani (PW3), the complainant, who has fully corroborated the stand of the prosecution as to rash and negligent driving by the petitioner and as has been brought to the notice of this Court nothing could be pointed out by the counsel for the revisionist which could put to doubt nor anything could come in support of the petitioner. Being an eye witness, the complainant who has received injuries in this accident, is a natural and plausible witness who cannot be disbelieved. Formal documents have been proved by PW2 ASI Satpal Singh. The contentions of counsel for the petitioner that the investigating officer has not been examined, does not cut much alicie for the petitioner as it is the admitted stand of the petitioner in cross-examination of PW3 that it was due to tyre burst the accident had taken place and thus the very date, time, place and mode of accident stand duly accepted and admitted by the defence and therefore, in terms of Sections 101 and 102 of the Evidence Act onus is on the defence to have proved and rebutted this fact but neither in his stand under Section 313 Cr.P.C. nor in his defence the revisionist could bring about any tangible evidence to create a dent in the prosecution story.

The prosecution has well brought out the factum that it was an intentional rash and negligent act of the petitioner who had driven the vehicle at a high speed inspite of the pleas by the passengers in the jeep has failed to take requisite precautions in driving and thus his intentional act in carrying on such a rash and negligent driving. The resultant death of four invaluable human lives by such criminally negligent act of the petitioner certainly needs to be deprecated. Keeping in view the ever increasing population of the vehicles on the roads laxity of the authorities in checking violation of the rules has led to astronomical rise in such number of accidental deaths and virtually as is there the data reflects that in India every minute almost one person losses his life or limb in a roadside accident are matters of grim scenario which meets the nation fate. The counsel for the petitioner could not bear out how the consecutive findings of the two Courts below is in any manner illegal, perverse necessitating intervention by this Court.

The revision being hopelessly without merits and is hereby dismissed.

November 09, 2017  
Vijay Asija

( FATEH DEEP SINGH )  
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No