

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

CRR-1297 of 2012 (O&M)

Date of decision: 07.02.2017

Sahi Ram

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Subhash, Advocate for
Mr. P.R. Yadav, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

None for respondent Nos.2 & 3.

Jitendra Chauhan, J. (Oral)

By filing the present criminal revision, the petitioner has assailed the judgment dated 10.03.2012, vide which learned Addl. Sessions Judge, Rewari, upheld the judgment dated 25.09.2009, passed by learned Sub Divisional Judicial Magistrate, Samana, whereby, the petitioner was convicted under Section 279, 337, 338 and 304-A of the Indian Penal Code (for short 'IPC'). He was sentenced to undergo RI for a maximum period of one year as mentioned in the impugned judgment of trial Court.

The brief facts of the case as set out from the judgment of Courts below are as under:-

“On 22.08.2002, Head Constable Ramswroop and Constable Jitender Kumar were present at Sundroj for patrolling duty. On the direction of SHO, PS Rampura, HC Ram Sawroop reached civil hospital and after getting opinion of doctor regarding fitness of injured Ravi Parkash, he recorded the statement of injured Ravi Parkash who alleged that he was working as a cleaner on Max vehicle bearing registration No.HR-66-T-0493. Sahi Ram son of Dharampal resident of Khaleta was driver of this vehicle. At about 1.00 p.m., they started from Naiwali Chowk to Narnaul along with the passengers. Sahi Ram driver was driving this vehicle at a high speed. He as well as other passengers asked him to drive the vehicle properly and at a slow speed but to no effect. Due to high speed and rash and negligent driver of Sahi Ram, at about 1.30 p.m., the vehicle struck against a cyclist on Narnaul-Rewari road. Due to impact of the accident, cyclist was thrown away and the driver lost the control over the vehicle and the same turned turtle. Due to this, he as well as Desraj and other passengers sitting in the vehicle received injuries. They were got admitted in Govt. Hospital, Rewari by the villagers of village Rampura. In this accident, one person whose name and address was not known to him died in the hospital due to injuries. On this statement of injured, Ravi Parkash, offence under Sections 279, 337, 304-A of IPC was found to exist against the accused. HC Ram Swaroop collected MLR of injured persons and made his endorsement on the statement made by injured Ravi Parkash and sent the same through C-Jitender Kumar in PS Rampura upon which the present FIR has been registered. ”

The accused/petitioner was charged sheeted under

Sections 279, 337, 338 and 304-A IPC, to which he pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 Surender Kumar, injured; PW-2 Lajwanti, injured; PW-3 Desraj, injured; PW-4 Shri Chand, injured; PW-5 Dr. J.K. Saini, PW-6 Shamsher Singh; PW-7 Om Parkash; PW-8 Dr. Hari Ram Yadav; PW-9 ASI Ram Sawroop, Investigating Officer and PW-10, Rajesh Kumar, injured.

The statement of the accused under Section 313 Cr.P.C., was recorded. He pleaded innocence and alleged false implication. In his defence, accused/petitioner had examined DW1-Ravi Parkash, injured and DW-2, Karan Singh.

After hearing the Addl. Public Prosecutor for the State, the Counsel for the accused, and after going through the evidence, on record, the trial Court convicted and sentenced the accused/petitioner, as stated hereinbefore.

Feeling aggrieved against the judgments of both the Courts below, the instant revision was filed by the accused/petitioner, which was admitted on 28.05.2012 and the petitioner was ordered to be released on bail to the satisfaction of the Chief Judicial Magistrate/Judicial Magistrate Rewari subject to deposit of Rs.60,000/- as per the undertaking given before this Court on 02.05.2012.

The learned counsel for the petitioner has contended that the trial Court as well as the appellate Court have erroneously passed the impugned judgments/orders, without appreciating the evidence on record whereby PW-1, Surender Kumar (injured) and PW-3, Des Raj had clearly stated that the vehicle turned turtle while trying to save the cyclist. Once it has come on record that the vehicle turned turtle while trying to save the cyclist, the question of negligent driving does not arise. The petitioner has already faced the agony of trial for fifteen years as the FIR pertains to the year 2002 and without there being any cogent and convincing evidence on record, both the Courts below have erred in convicting and sentencing the petitioner.

On the other hand, the learned State counsel argued that the prosecution has duly proved its case beyond a reasonable shadow of doubt. He states that the prosecution witnesses have fully established that the accident occurred due to rash and negligent driving of the petitioner. The learned counsel refers to the testimonies of PW-1, Surender and PW-3, Des Raj respectively whereby they have stated that the petitioner was driving the Max vehicle at a very high speed and they had asked the driver to slow down but he paid no heed, resulting into the accident in question.

I have heard the rival contentions and perused the record.

The arguments raised by the appellant that the accident in

question occurred while trying to save the cyclist, lacks merit. The present case was registered on the statement of injured/complainant, Ravi Parkash, who was examined as a defence witness by the petitioner. It is not in dispute that the accident in question took place on 28.02.2002 with vehicle No.HR-66-T-0493 driven by the petitioner. PW-1, Surender in his examination has duly corroborated the entire prosecution version by stating that on 22.08.2002, he along with his wife and two children were going to his in-laws in the vehicle in question. The driver of the said vehicle got changed at Rampura Chowk and thereafter, the present petitioner sat down for driving. He has specifically stated that the driver of the vehicle i.e. the present petitioner was asked several times to drive the vehicle at a low speed but he did not adhere to his request. The other co-passengers had also asked the driver but in vain. The statement of PW-1, Surender stands duly corroborated by PW-2, Lajwanti. PW-3, Desraj, one of the co-passenger/injured has also toed the lines as stated by PW-1, Surender and PW-2, Lajwanti. Thus, it has been duly proved on record that the accident had taken place due to rash and negligent driving of the petitioner. One of the injured, namely, Ranbir died in the accident. Further, the statements of injured/eye witnesses have been duly corroborated by Dr. J.K. Saini, PW-5 who medico-legally examined the injured and proved on record their MLRs. Accused/petitioner was duly identified by the eye witnesses

in the Court. The injured were not known to the accused/petitioner, thus, there is no occasion to falsely implicate the petitioner in the present case. There is nothing on record to suggest that the injured had previous enmity with the accused. Beside this, the version of eye witnesses have duly been corroborated by PW-9, ASI Ram Saroop, the Investigating Officer who had also deposed that on receiving the information about the accident, he reached Govt., Hospital, Rewari and upon declaring the injured fit to make a statement by the doctor, he recorded the statement of complainant, Ravi Parkash which formed the basis of registration of present FIR. Therefore, it has been duly proved that the petitioner was responsible for the accident which has been justified from the respective testimonies of the injured/eye witnesses who had given the entire sequence of occurrence that how and in what manner the accident took place due to rash and negligent driving of the driver. Thus, the prosecution has fully proved its case beyond reasonable doubt against the petitioner/accused.

There is, thus, no illegality in the impugned judgment dated 13.03.2012, passed by Addl. Sessions Judge, Rewari, and judgment dated 25.09.2009, passed by Judicial Magistrate 1st Class, Rewari and the same, are, hereby upheld and affirmed. There is no merit in the present revision petition which is hereby dismissed. The accused/petitioner be taken into custody forthwith to suffer

remaining part of sentence.

Rs. 60,000/- deposited by the petitioner in compliance of this Court's order dated 28.05.2012 be immediately released in favour of Smt. Manju wife of deceased Ranbir.

A copy of this judgment be also sent to Smt. Manju for information.

07.02.2017

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No