

CRR-1606-2014

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

CRR-1606-2014 (O &M)

Date of Decision: 07.04.2017

Bhola Ram

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Subhash Godara, legal aid counsel,
for the petitioner.

Mr. P.K.Aggarwal, DAG, Haryana.

INDERJIT SINGH, J.

Custody certificate, filed in Court today, is taken on record.

The present revision has been filed by petitioner-Bhola Ram against respondent-State of Haryana under Section 401 Cr.P.C. challenging the impugned judgment of conviction dated 23.07.2013 and order of sentence dated 24.07.2013 passed by learned Judicial Magistrate Ist Class, Kaithal vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three months and to pay a fine of ₹1,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of 15 days under Section 279 IPC; to undergo rigorous imprisonment for a period of three months and

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to pay a fine of ₹500/- and in default of payment of fine, to further undergo simple imprisonment for 15 days under Section 337 IPC and to further undergo rigorous imprisonment for a period of two years and to pay a fine of ₹200/- and in default of payment of fine, to further undergo simple imprisonment for a period of one month under Section 304-A IPC and also challenging the judgment dated 03.05.2014 passed by learned Additional Sessions Judge, Kaithal, vide which appeal filed by the petitioner was dismissed.

Notice of motion was issued. Learned State counsel put in appearance on behalf of the respondent-State and contested this revision.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that challan was presented against the petitioner in FIR No.181 dated 14.09.2008, registered at Police Station Sadar Kaithal, under Sections 279, 337 and 304-A IPC. The brief facts of the case, as noted down in the judgment passed by learned Judicial Magistrate Ist Class, Kaithal, are as under:

“The brief facts of the prosecution case as per report submitted under Section 173 Cr.P.C. and other accompanying documents are that on 14.9.2008 a telephonic message was received in P.S.Sadar, Kaithal regarding accident of a Qualis car with Haryana roadways bus and injured were taken to General Hospital, Kaithal. On receiving this information Ramphal Inspector alongwith ASI

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Karambir, HC Rajphool and Constable Balinder Singh reached General Hospital, Kaithal and moved an application to the concerned doctor, whereupon Randhir son of Sardara and Darshan son of Rampal were declared brought dead. Injured Ramlal and Sonu were stated to be referred to PGI, Chandigarh and other injured persons were declared fit to make statement, whereupon Naresh Kumar son of Deva Singh got recorded his statement to the effect that on that day he alongwith Sham Lal son of Sardara, Sohan Lal @ Sonu son of Baljeet, resident of Mal Kheri, Rajesh son of Rattan Singh, r/o Barta and Baldev son of Lal Chand, Rattan Singh son of Merli Teli, Ram Niwas son of Kashmiri Lal, Manish son of Pirthi, all residents of village Sanghan and Rohit son of Randhir, Randhir son of Sardara, Rajender son of Bant Singh and Sunil son of Dhan Singh, all residents of Nand Singh Khera were coming towards Kaithal in a qualis car bearing registration No.HR 64-2023. When they reached near village Padla at about 8.00 a.m., a Haryana roadways bus, whose registration was later on came to his knowledge as HR 64 0174 being driven by Bholla Ram in a rash and negligent manner hit their qualis car due to which the passengers sitting in the qualis sustained injuries. Rajender son of Bant Singh, resident of Nand Singh Khera died at the spot and driver of the qualis car namely Darshan Singh son of Rampal and Randhir son of Sardara died on their way to the hospital and the situation of Rohit son of Randhir Singh was very critical. Action against the driver of the offending

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bus was prayed for as the accident was caused due to his rash, negligent and over speeding.”

In support of its case, the prosecution examined as many as 17 witnesses and thereafter, the prosecution evidence was closed.

When the accused was examined under Section 313 Cr.P.C., he denied all the allegations and pleaded false implication in the present case. However, no evidence was led by him in his defence.

Learned Judicial Magistrate Ist Class, Kaithal, 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 Additional Sessions Judge, Kaithal, vide impugned judgment dated 03.05.2014.

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

At the time of arguments, learned legal aid counsel for the petitioner argued that the revision petitioner has been wrongly convicted without any cogent evidence by the courts below. The findings given by the courts below are perverse and against the evidence and, therefore, the revision petitioner is entitled to be acquitted of the charges framed against him.

Perusal of the record shows that the prosecution examined as many as 17 witnesses including the injured, doctors, who consistently deposed regarding the negligence of the present petitioner while driving the bus and causing the accident. As per the evidence on record,

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Rajinder, Darsan Singh, Rohit and Randhir died and so many persons have been injured. PW 5 Sunil deposed before the trial Court that he alongwith 15-16 persons was coming towards Kaithal in Qualis car bearing registration No.HR 64-2023. When they reached near Padla village near power house station, some unknown vehicle struck into their Qualis car and he became unconscious. So many witnesses have deposed regarding the accident, however, some of the witnesses have turned hostile and some have not identified the accused, but the evidence on record shows that the prosecution has duly proved its case by leading cogent evidence. PW 9 Pop Singh, Clerk, Haryana Roadways Kaithal Depot brought the summoned record including the duty roster dated 01.09.2008. As per PW 9, the present petitioner was driving the bus bearing registration No.HR 64-0174. The route of the bus was Kaithal to Sangrur and time of departure was 7.15 A.M. Perusal of cross-examination of PW 9 shows that no suggestion was given to him that the present petitioner was not driving the bus on 14.09.2008 or some other person was driving the bus. I have also gone through the statement of accused recorded under Section 313 Cr.P.C. in which he stated that he is innocent. He also stated that the accident with Qualis took place due to high speed of the Qualis vehicle and due to the fact that there were excess passengers in the Qualis. He also stated that the accident took place when the driver of Qualis tried to take turn, it turned turtle. The plea taken by the accused is that he has been falsely implicated for the

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purpose of taking claim. Even in the statement under Section 313 Cr.P.C. the accused has not stated that he was not driving the bus.

Perusal of the impugned judgments shows that both the courts below have recorded concurrent findings after appreciating the evidence in right perspective. In no way, the findings can be held as perverse or against the law. Moreover, this is a revision petition and in the revision petition, this Court is not to re-appreciate the evidence, like Court of an appeal and this Court is only to see whether any finding is perverse or some material evidence has not been considered. At the time of arguments, learned counsel for the petitioner failed to point out as to which material evidence has been misread or which material evidence has not been considered by the courts below.

From the above, I find that the concurrent findings given by both the courts below are correct, as per law and do not require any interference from this Court and, therefore, the same are upheld.

Resultantly, finding no merit in the present revision petition, the same is dismissed.

07.04.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No