

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR 4239 of 2016 (O&M)
Date of Decision : 19.01.2017

Deep Kumar

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Atul Goyal, Advocate
for the petitioner.

Surinder Gupta, J.

This is revision petition against judgment of conviction of the petitioner for offences punishable under Sections 304-A and 279 of Indian Penal Code (for short 'IPC') recorded by the Judicial Magistrate Ist Class, Samrala, which was affirmed in appeal by learned Additional Sessions Judge, Ludhiana.

2. Case of prosecution, in brief, is that on 13.07.2011 at about 12.30 p.m., Ramji Dass (deceased) and his son Shivjit Kumar were present at their welding shop in the area of village Harion Bad Kalan. Ramji Dass was unloading a lister engine and other goods from his scooter after parking the same in front of his shop, when the petitioner-Deep Kumar while driving canter bearing registration no. PB-07-P-7057 (Tata 1109) came at the spot and hit a board installed in front of the shop and then father of the complainant. At that time he was driving canter at a very high speed in a rash and negligent manner. Father of the complainant was dragged alongwith scooter towards an electricity pole which had been installed in the field of paddy, where the canter hit the electricity pole. Ramji Dass got crushed under the canter and suffered serious injuries all over his body and the

scooter was also badly damaged. The deceased was taken to CMC Hospital, Ludhiana, where he succumbed to his injuries. The matter was reported to the police and FIR No. 83 dated 13.07.2011 was registered at Police Station Machhiwara, District Ludhiana for offences punishable under Sections 279, 304-A and 427 IPC.

3. The prosecution relied on statement of complainant Shivjit Kumar, who appeared as PW-1 and eye-witness PW-2 Amarjit Singh in order to prove that the accident was caused by the petitioner due to rash and negligent driving of the canter.

4. Learned counsel for the petitioner has mainly stressed on the point that identity of the petitioner as driver of canter, which caused the accident, is not duly proved. The canter in fact belongs to Gurjit Singh, who himself was driving it but he implicated the petitioner in this case. This fact is evident as FIR was registered in this case with a delay of nine hours. The complainant has stated that he came to know about name of driver from his driving licence while police has stated that driving licence was taken into possession on the next day. Raman Kumar, who disclosed the name of driver to complainant was never examined by the police.

5. On perusal of judgments of Courts below I find that both the Courts have discussed in detail the argument concerning identity of the petitioner as driver of the canter. Complainant has stated that he had seen the accused at the spot and had also identified him in Court. The petitioner is named in the FIR. He belongs to S.B.S. Nagar while the accident had taken place within the jurisdiction of Police Station Machhiwara, District Ludhiana.

6. It is not the case of petitioner that he was known to the complainant or complainant has got any reason or motive for his false

was put to PW-1 Shivjit Kumar-complainant that accused was not driver on the canter which caused the accident. PW-2 Amarjit Singh had also identified the accused as person, who was driving the canter at the time of accident. He had also stated that name of the accused came to his knowledge after the occurrence from driving licence of the accused, which was seen by him in evening between 07.00 p.m. to 09.00 p.m. This licence was lying in the shop of deceased. The canter remained at the spot after accident and police had taken driving licence into possession on the next day. It is immaterial whether it was taken into possession from the canter or from the place of occurrence. As per case of the prosecution, canter first hit the board of shop of the deceased and after hitting scooter and dragging deceased to some distance entered paddy fields and hit an electricity pole. PWs, who were present at the spot, must have rushed after the deceased in order to take care of him. The petitioner had come down from the canter and then ran away from the spot. There was enough time and opportunity for the complainant and eye-witness to see the petitioner. The mere fact that Raman Kumar, who disclosed the name of accused to the complainant has not been examined, is not relevant as both the witnesses have identified the accused.

7. Submissions made by learned counsel for the petitioner make out no case for interference in the judgments of Courts below.

8. No other argument has been addressed.

9. This revision petition has no merit and the same is dismissed.

January 19, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No