

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

CRR No.4278 of 2016 (O&M)
Date of Decision: January 16, 2017

Harbans

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Preetinder Singh Ahluwalia, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Harbans against respondent State of Haryana, challenging the impugned judgment of conviction dated 07.08.2013 and order of sentence dated 08.08.2013 passed by learned Judicial Magistrate Ist Class, Karnal, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period of six months under Section 279 IPC and further to undergo simple imprisonment for a period of one year and to pay fine of ₹2000/- and in default of payment of fine, to undergo simple imprisonment for a period of three months under Section 304-A IPC and also challenging the judgment dated 21.10.2016 passed by learned Addl. Sessions Judge, Karnal, vide which appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against

petitioner in case FIR No.111 dated 01.07.2008. The brief facts of the case

as noted down in the judgment passed by learned JMIC, Karnal, are as under:-

“2. The brief facts of the prosecution case are that on 01.07.2008, ASI Manjit Singh along with EASI Miya Singh and Constable Satbir Singh was present at Bus Stand, Indri for patrol duty. Then, complainant Baljit Singh son of Ram Parsad, resident of Bibipur Jatan met with ASI Manjit Singh and got recorded his statement. The complainant Baljit Singh alleged in his statement that the daughter of his cousin brother Baldev namely Meena wife of Ashok Kumar, resident of Garhpur Khalsa came in village Bibipur Jattan for meeting them. The said Meena had two children namely Akta and Ashu. On 01.07.2008, Ashok along with his wife Meena and children were coming back to their village Garhpur Khalsa on his motorcycle bearing registration No.HR-05H-2934. He was also going to Indri on his motorcycle. When, they reached at Nohta Bus Stand in front of Best Food at about 3.00 p.m. , then, a truck bearing registration NO.HR- 42D-2869 came from the back side being driven by its driver in a rash and negligent manner and struck into the motorcycle of Ashok Kumar and dragged, due to which, said Meena and Ashu fell on the ground and Ashok Kumar and Akta crushed under the said truck. The said Akta died at the spot. The said Ashok received serious and multiple injuries . The truck driver stopped his truck and came at the spot, but after some time, he fled away from the spot. It has been further alleged by complainant that the said Ashok was admitted in G.H Karnal, where Ashok Kumar succumbed to his injuries. The said accident was caused by truck driver by driving his truck in a rash and negligent manner.

3. On the basis of the statement of complainant, the FIR bearing no.111 dated 01.07.2008, under Sections 279 and 304-A of the Indian Penal Code was registered. The matter was investigated. Site plan was prepared. Accused was arrested. The statements of the witnesses were got recorded. After completion of usual formalities of investigation, final report under Section 173 of Cr.P.C. was presented in the Court.”

In support of its case, prosecution examined PW-1 Constable Satbir Singh, PW-2 ASI Manjit Singh, PW-3 ASI Mahabir Singh, PW-4 Baljit Singh, PW-5 Dr.Vinod Kumar, Medical Officer, PW-6 Ram Chander, PW-7 EASI Miha Singh, PW-8 Meena, PW-9 Joginder Singh, PW-10 Dhhrampal, PW-11 Satbir Singh and PW-12 Virender Kumar.

Statement of the accused under Section 313 Cr.P.C. was recorded. He denied the correctness of the evidence and pleaded himself as innocent. No witness was examined in defence.

Learned JMIC, Karnal, 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 Addl. Sessions Judge, Karnal, vide judgment dated 21.10.2016.

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

At the time of arguments, learned counsel for the petitioner argued that petitioner is entitled to acquittal as no identification parade has taken place in the present case and identity of the accused is doubtful. He further argued that rash or negligent driving of the accused-petitioner has not been proved.

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

The perusal of the findings given by both the Courts below shows that these findings have been given as per evidence and law. In no way, the findings given by the trial Court as well as learned lower Appellate Court can be held as perverse or against the evidence. There is also nothing on the record to show that these findings are against the law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below. The complainant has deposed that his relative Ashok along with his wife and two minor children was on the motorcycle. At about 3.00 p.m., a truck

driver at very fast speed and in a rash and negligent manner and struck into the motorcycle of Ashok Kumar and dragged his motorcycle to some distance. This fact itself shows the rash and negligent driving of the accused. The dragging of motorcycle to some distance as well as hitting the motorcycle from the back side proves rash and negligent driving and findings given by both the Courts below are concurrent.

Further, as per the evidence on record, the truck driver stopped the vehicle and came down and after some time, he fled away from the spot, which means that there was sufficient time for the complainant and other eye witnesses to see the accused and they identify the accused in the Court. The identification of the accused in the Court is substantial piece of evidence. There is no enmity or motive of the complainant side to depose falsely against the accused.

The perusal of the record as well as judgments passed by the Courts below, I find that no illegality has been committed by the Courts below while passing the impugned judgments of conviction and order of sentence. This is a revision petition and this Court is not to re-appreciate the evidence like Court of an appeal. As already discussed, the judgments passed by the Courts below cannot be held as perverse or illegal nor anything is there to show that any material evidence has been misread by the Courts below.

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

January 16, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No