

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

**CRR No.4306 of 2016 (O&M)
Date of Decision: January 13, 2017**

Yogesh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vinod Bhardwaj, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Yogesh Kumar against respondent State of Haryana, challenging the impugned judgment of conviction dated 14.09.2015 and order of sentence dated 15.09.2015 passed by learned Judicial Magistrate Ist Class, Sonipat, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹500/- under Section 279 IPC and further to undergo rigorous imprisonment for a period of one year and to pay fine of ₹1000/- under Section 304-A IPC and also challenging the judgment dated 10.11.2016 passed by learned Addl. Sessions Judge, Sonipat, vide which appeal filed by petitioner was dismissed.

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

petitioner in case FIR No.152 dated 13.05.2010. The brief facts of the case

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

“2. Briefly stated the case of the prosecution is that on 13.05.2010, a telephonic message was received at Police-Station that an accident has occurred at Nahra Bridge Village Nahra. On which police party consisting of ASI Lal Chand along with Constable Manoj No.1745 reached at the place of occurrence, where one Ashok Kumar son of Om Parkash, resident of Sisana got recorded his statement to the effect that he is an agriculturist and today he was returning from Narela on his motorcycle and his uncle Ram Kumar son of Chander Singh and Auntie Santra wife of Ram Kumar were along with him on their motorcycle bearing registration No.HR-10J-1610. His uncle and auntie were ahead of him. When they reached near Nahra Bridge Village Nahra, a car bearing registration No.DL-4C-AA-8380 came in rash and negligent manner and hit his uncle's motorcycle. Car driver caused accident after bringing the car in wrong side. He went to his uncle and auntie. His uncle died on spot and his auntie Santra died in the hospital. Driver of the vehicle fled away from the place of occurrence.”

In support of its case, prosecution examined 12 witnesses.

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, Sonipat, 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, Sonipat, vide judgment dated 10.11.2016.

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

At the time of arguments, learned counsel for the petitioner mainly argued on two points, firstly that no identification parade has been conducted and secondly, the statement Ex.D1 given in the MACT case is

contradictory to the statement given by the complainant in the present case.

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

From the record, I find that as per the allegations, the car driver stopped at the spot and left behind his vehicle there. Therefore, witnesses have sufficient time to recognize the driver of the car. Furthermore, the registration number of the vehicle has been mentioned in the FIR. The driver fled away from the spot after leaving the car there and the witnesses while appearing in the Court, have identified the accused-petitioner, who was driving the car and has caused the accident by driving rashly. It is in the evidence that car driver caused the accident by driving the car negligently, which also proves the negligence of the accused in causing of the accident.

As regarding the statement of complainant, certified copy of which is Ex.D1, has been tendered by the accused into the evidence. I have gone through the statement of the complainant. Nowhere the complainant has been confronted with the statement Ex.D1. Otherwise also, learned JMIC, Sonipat in the impugned judgment has discussed the discrepancy, which is minor in nature and immaterial for the decision of the case.

I have gone through the judgments passed by the Courts below and they have given concurrent findings of fact regarding guilt of the accused. The findings have been given as per evidence and law. In no way, the findings can be held as perverse i.e. against the evidence and 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. This is a revision petition and this Court is not to re-appreciate the

evidence like Court of an appeal.

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

January 13, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No