

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

**CRR No.4584 of 2016 (O&M)
Date of Decision: February 20, 2017**

Jitender

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vaibhav Prasher, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Jitender against respondent State of Haryana, challenging the impugned judgment of conviction and order of sentence dated 15.07.2016 passed by learned Judicial Magistrate Ist Class, Palwal, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay fine of ₹1000/- and in default of payment of fine, to undergo simple imprisonment for a period of one week under Section 279 IPC and further to undergo rigorous imprisonment for a period of two years and to pay fine of ₹2000/- and in default of payment of fine, to undergo simple imprisonment for a period of two weeks under Section 304-A IPC and also challenging the judgment dated 10.11.2016 passed by learned Addl. Sessions Judge, Palwal, vide which appeal filed by petitioner was

dismissed. Both the sentences were ordered to run concurrently.

From the record, I find that the challan was presented against petitioner in case FIR No.192 dated 28.05.2011. The brief facts of the case as noted down in the judgment passed by learned JMIC, Palwal, are as under:-

“2. The case of the prosecution in brief is that 28.05.2011 the complainant alongwith Parsuram, Khajan, Sukhbir was going towards the Village Rehrana in the Mahindra Pick-up bearing registration no. HR-38M-1330 belonging to Sukhbir at around 6: 00 A.M. when they reached between the Villages Pinghod and Deeghot, a truck bearing registration no. UP-13T-1291 was in front of them on the road and the same was being driven in a rash and negligent manner by the driver. At that time a motorcycle was coming from the side of Village Deeghot and the driver of the truck rammed his truck into that motorcycle and as a result the persons who were sitting on that motorcycle succumbed to their injuries on the spot and the truck also lost its balance and turned upside down on the side of the road and caught fire. The driver of the truck escaped from the spot. The complainant and persons accompanying him recognized the deceased person as Anil, Deep Chand and Amar Chand. He has prayed for action against the accused.”

In support of its case, prosecution examined PW-1 Dhanraj, PW-2 Baljeet, complainant, PW-3 Dev Raj, PW-4 ASI Brij Pal, PW-5 Dr.Raj Kumar, PW-6 Ashok Kumar, PW-7 ASI Mohammad Illiyas, Investigating Officer, PW-8 Sukhbir, PW-9 Parsuram, PW-10 Manoj, PW-11 Raju, PW-12 Khajan Singh and PW-13 Laxmi Narayan.

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, Palwal, 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, Palwal, 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 contended that none of the eye witness has identified the accused, who has caused the accident, therefore, he argued that identity of the accused has not been proved.

I have heard learned counsel for the petitioner and have gone through the record, especially the judgments passed by the Courts below.

The findings given by both the Courts below are correct, as per evidence and law. In no way, the findings can be held as perverse or illegal. Though the independent witnesses have not deposed specifically regarding the identity of the accused while appearing in the witness box but the fact that accused-petitioner was driving the truck in question on that day, has been duly proved by the owner of the truck PW-6 Ashok Kumar. This witness stated that on that day, when the accident took place, Jitender was driving the truck, who is present in the Court. I have gone through the cross-examination of this witness. No suggestion was given to PW-6 Ashok Kumar that Jitender was not driving his truck on that day or not employed by him. The mere fact that this witness could not tell the date on which the accident took place, will not make the statement of PW-6 unreliable.

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 perusal of the record shows that the findings have been given after appreciating the evidence in right perspective. Both the Courts below have given concurrent findings qua the guilt of the accused. It is a

Court of an appeal.

In view of the above discussion, I find that the judgments passed by the Courts below are correct, as per evidence and law and do not require any interference from this Court.

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

February 20, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No