

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1051-2017 (O&M)

Date of decision: 10.08.2017

SUBHASH CHAND

..... *Petitioner*

Vs.

STATE OF PUNJAB

.....*Respondent*

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Ruhani Chadha, Advocate,
 for the petitioner.

Mr. C.L. Pawar, Sr. DAG, Punjab.

KULDIP SINGH J. (ORAL)

The present revision petition has been filed against the judgment dated 27.02.2017, passed by the learned Additional Sessions Judge, Rupnagar, affirming the judgment of conviction and order of sentence dated 28.10.2016 passed by the learned Judicial Magistrate Ist Class, Rupnagar, vide which petitioner was convicted under Sections 279, 337 and 304-A Indian Penal Code and to undergo the following sentence: -

Under Section 279 IPC:

Rigorous imprisonment for a period of three months and fine of ₹500/- and in default thereof to further undergo simple imprisonment for 15 days.

Under Section 337 IPC:

Rigorous imprisonment for a period of three months and fine of ₹500/- and in default thereof to further undergo simple imprisonment for 15 days.

Under Section 304-A:

Rigorous imprisonment for a period of one year.

However, all the sentences were ordered to run concurrently.

In the nutshell, the allegation against the petitioner are that on 15.09.2012, he was driving a mini truck bearing number PB-32G-7138 belonging to Kulwant Singh (PW-14) at high speed and in a rash and negligent

CRR-1051-2017 (O&M)

manner. The said truck hit the persons who were waiting for the Bus at Bus Stand, Kharar. As a result of the said accident, one Mukhtiar Kaur died and seven other persons were injured.

I have heard the learned counsel for both the parties and have carefully gone through the case file.

Learned counsel for the petitioner has argued that in this case Harbans Singh-complainant has turned hostile and did not support the case of the prosecution. It has further been argued that statement of Kulwant Singh (PW-14), owner of the truck, to the effect that the present petitioner-Subhash Chand was the driver of his mini truck and that he had informed him about the said accident, was not put to him in the statement recorded under Section 313 Cr P.C. It is further argued that two of the witnesses namely; Avtar Singh and Surmukh Singh, PW-3 and PW-4 could not be cross examined by the accused-petitioner and the application for allowing them to be cross-examined was dismissed. It is further stated that other injured persons namely; Shamsher Singh, Mohan Singh and Balbir Singh had not identified him in the Court as well as at the spot.

After considering the evidence led by the prosecution, I am of the view that in this case identity of the mini truck is established. The accused-petitioner, after the accident, left the mini truck at the spot and is alleged to have fled away. Therefore, the identity of the vehicle involved in the accident is established.

Admittedly, the statement of Kulwant Singh (PW-14) was not specifically put to the petitioner in this statement under Section 313 Cr. P.C. but this Court is to see as to whether without that evidence, the case of the prosecution is proved beyond all reasonable doubts? In this case, Avtar Singh

CRR-1051-2017 (O&M)

and Surmukh Singh (PW-3 and PW-4) during examination in chief had identified the accused-petitioner in the Court and also stated on oath that they had seen the accused-petitioner at the spot while he was driving the offending vehicle. However, they were not cross examined by the learned counsel for the accused-petitioner and their cross-examination was treated to be nil. The application to recall the said witnesses to face cross examination was dismissed by the trial Court and the said order is not stated to have been challenged before any superior Court and now has become final. The net result is that the statement of Avtar Singh and Surmukh Singh (PW 3 and PW-4), to the effect that accused was involved in the accident and he was identified on the spot goes un-rebutted. In addition to this, other witnesses Shamsheer Singh, Mohan Singh and Balbir Singh who were also injured, though identified him in the Court but their evidence read as a whole alongwith the evidence of other witnesses, goes to prove that the accused-petitioner was identified at the spot. He ran over the persons waiting for Bus at the Bus Stand, Kharar and when there is a crowd, there is always a possibility that someone may identify the person, who was driving the offending vehicle. It is further noted that though the statement of Kulwant Singh (PW-14), owner of the vehicle, was not put to the accused-petitioner in the statement recorded under Section 313 Cr. P.C., but it is also to be noted that in the cross-examination the accused has never challenge that he was not an employee of said Kulwant Singh (PW-14) as a Driver and that he was not driving the vehicle on the said date or that the said vehicle was not handed over to him on the said date. He also does not claim that he had handed over the vehicle to some other person for driving.

It being so, there is no need to remit back the present case to the trial Court for putting the statement of Kulwant Singh (PW-14) to the accused

CRR-1051-2017 (O&M)

petitioner recorded under Section 313 Cr. P.C. as the remaining evidence is sufficient to sustain the conviction awarded to the accused-petitioner.

I am of the view that both the Courts below have rightly held the accused-petitioner guilty for the offence under Sections 279, 337 and 304-A of the Indian Penal Code. Consequently, the findings of both the Courts below are upheld and keeping in view the manner of the accident, there is no scope for reduction in the sentence awarded to the petitioner.

In view of the above, the present revision petition is dismissed.

August 10, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

<i>Whether speaking / reasoned</i>	:	✓ Yes	/	No ✓
<i>Whether Reportable</i>	:	Yes	/	No