

**220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR No.1060 of 2017 (O&M)****Date of decision : September 27, 2017****Lakhbir Singh****..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE KULDIP SINGH****Present:-** Mr. Rahul Bhargava, Advocate for the petitioner.

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

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The present revision petition is against the judgment of conviction and order of sentence dated 14.01.2016 passed by learned Judicial Magistrate 1st Class, Amritsar, vide which the petitioner was convicted and sentenced as under:

Sr. No.	Offence	Imprisonment	Fine	In default of payment of fine
1	279 IPC	R.I. for one year	₹100/-	S.I. for 7 days
2	304-A IPC	R.I. for one year	₹400/-	S.I. for 7 days

The appeal against the said judgment and order was dismissed by the learned Addl. Sessions Judge, Amritsar, vide judgment dated 01.02.2017, in which the both the sentences awarded to the petitioner by the lower court were affirmed and were directed to run concurrently.

The prosecution story is that on 11.07.2008 at about 7.00 a.m., Khushwant Singh, complainant after paying obeisance at Gurudwara Baba Shaheedan was going back to his house on his motorcycle. He found that his neighbours, namely, Simranjit Singh son of Amarjit Singh and Dilpreet Singh son of Manjit Singh were going on Hero Honda Passion

motorcycle bearing registration No.PB-02Q-2481 ahead of the complainant. When they reached near Mata Kaulan Bhalai Kendar, then one truck bearing registration No.PB-04-2500 which was loaded by the iron pipes came at fast speed without blowing horn,. The truck overtook the motorcycle of complainant and hit the motorcycle of Simranjit Singh and Dilpreet Singh and crushed their bodies. Both Simranjit Singh and Dilpreet Singh died at the spot. The truck driver stopped the truck at some distance and came to the spot. On questioning, he disclosed his name and address. When the people gathered at the spot, the truck driver taking advantage of the crowd fled away. In the meanwhile, complainant's neighbours Harchand Singh and Jagpreet Singh also reached there. The present petitioner was arrested on 11.07.2008.

Before the lower court, complainant Khushwant Singh appeared as PW3, Jagpreet Singh appeared as PW2, Harchand Singh appeared as PW4, police official H.C. Lakhbir Singh appeared as PW5 and H.C. Prem Singh appeared as PW1 and retired Sub Inspector Balkar Singh appeared as PW6 and the remaining prosecution evidence was closed by order.

In defence, the accused-petitioner pleaded that he has been falsely implicated. He examined DSP Gurnam Singh as DW1 and closed the evidence.

After hearing learned counsel for the parties and going through the evidence, the learned Judicial Magistrate 1st Class, Amritsar, convicted and sentenced the petitioner as aforesaid. The appeal against the said judgment was dismissed as discussed above.

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

Learned counsel for the petitioner has vehemently argued that in this case, the petitioner is innocent and has been falsely implicated.

A perusal of the lower court file shows that complainant Khushwant Singh is resident of Shaheed Baba Deep Singh Nagar, Tarn Taran Road, Amritsar, which is near to the Gurudwara Baba Shaheedan. It is also taken to the judicial notice that the people in the said area have practice of paying obeisance at Gurudwara Baba Shaheedan in the morning. Therefore, the presence of complainant Khushwant Singh at Gurudwara Baba Shaheedan was natural.

A perusal of the site plan shows that it was wide road having divider in between. A further perusal of site plan Ex.PW6/D shows that the road leads from Chati Wind Chowk towards Tarn Taran. The place of accident is opposite to Mata Kaulan Public School and Mata Kaulan Bhalai Kendar. It also comes out that after hitting the motorcycle from behind, the dead body of Simranjit Singh was lying at point 'A', opposite to Mata Kaulan Public School and at some distance, the dead body of Dilpreet Singh was lying at point 'B' towards Tarn Taran and at some more distance, the motorcycle was lying at point 'C'. Thereafter, the truck was lying parked. There is nothing in the site plan to show that some concrete was lying at the spot and that motorcycle slipped over the said concrete and fell under the truck as sought to be projected by learned counsel for the petitioner.

Learned counsel for the petitioner has referred to the statement of the witnesses.

It comes out that Jagpreet Singh, PW2 had come to the spot after the accident. Therefore, his statement that he did not see the accident does not affect the merits of the case. Khushwant Singh, complainant, PW3 stood by his statement. He has stated that the truck was loaded with iron pipes. The truck ran over the motorcycle and after crushing both the occupants, stopped at some distance. The witness also identified the truck driver. The truck was left at the spot and the truck driver taking advantage of the crowd fled away from the spot. The statement of complainant Khushwant Singh, PW3 is truthful version, fully corroborated by the other evidence on file. The mere fact that Khushwant Singh could not tell that how many photographs were taken and that there are minor contradictions regarding his claim that he had also signed the site plan is also immaterial. It is to be noted that the other witness Jagpreet Singh, PW2 signed the site plan, which is prepared on the inquest report. Therefore, the statement of Khushwant Singh, complainant in this regard is correct.

So far as statement of DSP Gurnam Singh, DW1 is concerned, when there is positive evidence that the accident took place due to rash and negligent driving of accused-petitioner, his inquiry report was rightly discarded by the trial court.

It is to be noted that it was never suggested to Khushwant Singh, complainant that any concrete was lying on the side of the road and that it was due to concrete that motorcycle slipped and came under the truck. The prosecution case has been corroborated on all the material particulars. The minor discrepancies here and there will not effect the merits of the case. Therefore, there are no merits in the present revision petition.

The findings recorded by both the courts below are hereby affirmed.

Learned counsel for the petitioner has prayed that the petitioner has already undergone total sentence of 8 months and 7 days as on 27.09.2017. Therefore, his sentence of rigorous imprisonment for one year should be reduced to the period already undergone by him.

I am of the view that in this case two persons lost their life at the prime stage of their life. The sentence awarded to the petitioner by the lower court is already on the lighter side. Therefore, no further reduction in the sentence of imprisonment is possible. The present revision petition is, accordingly, dismissed.

(KULDIP SINGH)
JUDGE

September 27, 2017

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Whether speaking / reasoned Yes

Whether Reportable: No