

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

CRR No.1190 of 2017 (O&M)
Date of Decision: April 25, 2017

Kartar Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Bhupinder Singh Thind, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Kartar Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 25.07.2016 passed by learned Judicial Magistrate Ist Class, Rupnagar, vide which the petitioner was convicted under Sections 279, 337, 338, 304-A and 427 IPC and sentenced to undergo rigorous imprisonment for a maximum period of one year under Sections 338 and 304-A IPC along with fine and also challenging the judgment dated 01.03.2017 passed by learned Sessions Judge, Rupnagar, vide which appeal filed by petitioner was dismissed. All the sentences were ordered to run concurrently.

From the record, I find that challan was presented against accused-petitioners in case FIR No.172 dated 26.12.2008 under Sections 279, 337, 338, 304-A and 427 IPC. The brief facts of the case as noted

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

“2. Prosecution was launched in the present case on the receipt of information by SI Lakhwinder Singh who was on VVIP duty near bus stand Kurali along with HC Charanjit Singh, HC Hardarshan Singh and two other constables about a road side accident in which several persons had sustained injuries and were undergoing treatment in Civil Hospital, Kurali. On the receipt of this information, SI lakhwinder Singh along with other police party proceeded to Kurali Hospital and there outside met the complainant Kulvir Singh who suffered a complaint stating that on 26-12-08 he along with his paternal uncle Jaswinder Singh and Ramanjit Singh were going to Kharar on their motorcycles. He stated that his uncle was driving his motorcycle bearing registration No. PB12-F-4214 whereas Ramanjit was riding with his uncle. And he was riding his motorcycle bearing registration No. PB-12-H-4928. He stated that his uncle was riding some 10-15 feet ahead of him and as they reached village Chanalon, they saw a scooter coming from Chandigarh side being driven on its side on the road by a Sikh guy behind whom a lady pillion rider and two kids were riding as well. He deposed that behind the scooter was an ambulance bearing registration No. HP-31-1373 which was being driven rashly and negligently at a high speed and the ambulance without blowing horn while trying to overtake the scooter banged into the scooter and the scooter due to the blow fell across the road. He deposed that on seeing this, they halted their motorcycles but the ambulance hit into his uncles motorcycle , then banging across an electricity pole, it also hit a pedestrian after which it fell in the fields. He stated that he ran towards his uncle and Ramanjit and saw that they had suffered many injuries. Then he went towards the scooterist and inquired from him who disclosed his name as Dev Singh. He stated that the pedestrian disclosed his name as Ashwani Kumar. He stated that thereafter, he went to the ambulance driver and found out his name as Kartar Singh. He stated that thereafter with the help of other persons who had assembled on the spot, he took the injured to Civil Hospital and the driver of the ambulance taking advantage of the crowd fled from the spot. His uncle was declared dead on arrival while Ramanjit Singh and Ashwani Kumar were referred to PGI for further treatment. Dev Singh and his wife Manjit kaur were referred to General Hospital, Sector 16, Chandigarh. He stated that the bus driver was driving the bus in a rash and negligent manner due to which he caused the accident and accordingly action as per law be taken against him.

3. On the receipt of this complaint, an FIR was registered against accused under Sections 279, 337, 427 and 304-A IPC. Investigation was set into motion by SI Lakhwinder Singh. Investigating Officer recorded the statement of the witnesses

under Section 161 Cr.P.C. Vehicles involved in the accident were seized and impounded. Accused was arrested. Post-mortem of the deceased was got conducted. After obtaining medical-legal report of the injured, Section 338 IPC was added. Thereafter, on completion of necessary investigation, final report under Section 173 Crpc was presented in the court for putting the accused on trial.”

Learned JMIC, Rupnagar, 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 Sessions Judge, Rupnagar, vide judgment dated 01.03.2017.

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

At the time of arguments, learned counsel for the petitioner argued that PW-1 Manjit Kaur and PW-2 Dev Singh have not supported the prosecution version, therefore, the accused-petitioner is entitled to acquittal. Learned counsel for the petitioner also pointed out discrepancies in the statements of PWs as PW-4 Ramanjit Singh has stated that driver of ambulance tried to overtake the scooter whereas PW-6 Kulvir Singh stated that scooter was overtaking the ambulance.

I have heard learned counsel for the petitioners and have gone through and lower Court records.

First of all, I find that such minor discrepancies occur due to gap of time in the statements of the witnesses. The accident took place in the year 2008 and PW-4 Ramanjit has deposed on 16.01.2015 i.e. after gap more than six years. The perusal of the judgments passed by the Courts below shows that concurrent findings have been given regarding the conviction of the accused-petitioner. 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. Nothing has been pointed out as to how the judgments passed by both the Courts below are perverse or against the evidence or law.

The chief-examination of PW-1 Manjit Kaur shows that she has supported the prosecution version by stating that ambulance hit the scooter when the ambulance driver was driving the vehicle rashly and negligently. PW-1 also identified the accused in the chief-examination. Her cross-examination was deferred and she was cross-examined after a long period and then during cross-examination, she turned hostile and has not supported the prosecution version. Similarly, PW-2 Dev Singh, in chief-examination, supported the prosecution version and identified the accused on 20.08.2010 but his cross-examination was got deferred and when he was cross-examined on 27.05.2011, then he has not supported the prosecution version.

All this, on the face of it, shows that accused has tampered with the evidence and the witnesses resiled from the statements given in chief examination. In such type of circumstance, it is for the Court to see, which part of the statement is to be believed. In my view, PW-1 and PW-2 have supported the prosecution version. Other PWs have also supported and corroborated the prosecution version.

The findings of fact have been given by both the Courts below as per law. In no way, the findings can be held as perverse or against the evidence. Nothing has been pointed out which may make the statements of the witnesses unreliable. No material discrepancies have been pointed out.

Both the Courts below have passed the judgments after appreciating the evidence in right perspective.

In view of the above discussion, I find that the impugned 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.

April 25, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No