

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 1510 of 2017 (O&M)
Date of Decision: 05.07.2017

AMARJIT SINGH *...Petitioner*
VS.
STATE OF PUNJAB *...Respondent*

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

Present: Mr. Zorawar Singh Chauhan, Advocate,
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

KULDIP SINGH, J. (ORAL)

Brief facts of this case are that the present petitioner was tried and convicted by the learned Judicial Magistrate, Phillaur under Section 279 and 304-A IPC to undergo the sentence as under: -

<i>Under Section (s)</i>	<i>Conviction R.I. for</i>	<i>Fine ₹</i>	<i>In default R.I. of</i>
<i>304-A of IPC</i>	<i>2 years</i>	<i>1,000/-</i>	<i>2 Months</i>
<i>279 of IPC</i>	<i>3 Months</i>	<i>200/-</i>	<i>10 days.</i>

Both the sentences were directed to run concurrently by the appellate Court.

The facts of the case are that complainant-Ankur is living in Jalandhar and is serving in Panchayati Raj Primary School, Dara Pur. In order to reach school, she used to go in bus from Jalandhar to Nakodar. At Nakodar Bus Stand, she had already parked her Activa scooter and on her Activa-Scooter she used to go to her school at Dara Pur. Her friend Jiwan Jyoti, who was also living at Jalandhar and was working in Panchayati Raj Primary School in Village Sagarpur. Both of them used to go together from Jalandhar and Ankur daily use to give lift to her friend Jiwan Jyoti and drop her at Primary School in village Sagarpur.

In the afternoon of the fateful day of 17.04.2010, Complainant-Ankur picked-up her friend Jiwan Jyoti from School at Village Sagarpur on her Activa Scooter. Jiwan Jyoti was sitting on the rear seat of the Activa scooter. At about 2:15 p.m., they reached the bus stop at village Sagarpur and

they were to go on the main road. One truck, bearing registration number PB-10-AH-9801 came from Phillaur side at a very high speed and in a rash and negligent manner. After seeing the truck, complainant-Ankur stopped her Activa scooter at some distance from the main road. The truck driver drove the truck in a zigzag manner and hit the legs of Jiwan Jyoti who was sitting on the rear seat of the scooter. As a result of the accident, Jiwan Jyoti fell down from the scooter. She was dragged to some distance and was crushed under the rear wheels of the said truck. Both the legs of Jiwan Jyoti were severed from her body. Complainant-Ankur and Jaswinder Singh (relative of Jiwan Jyoti) who was standing at the Bus Stop at Sagarpur, both raised alarm and chased the truck but the driver successfully sped away from the spot.

In order to support the case, the prosecution examined the complainant (PW-2); Ankur and (PW-1); Jaswinder Singh. Some of the Police officials were also examined.

After the trial, the learned Judicial Magistrate, First Class, Phillaur, held the petitioner guilty under section 279 and 304-A and accordingly order of sentence was passed and the same was also upheld in the appeal by the learned Sessions Judge, Jalandhar with the modification.

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

Learned counsel for the petitioner vehemently argued that in this case occurrence as stated could not have taken place. He has referred to the report of the Mechanic-Head Constable-Amarjit Singh who has submitted the test report as Ex. PW3/A and mechanical report as Ex. PW3/B showing that there is no damage to the truck as well as to the Activa-scooter in question. It is further contended by the learned counsel for the petitioner that it is not

Nurmahal-Phillaur Road, the truck will be in a position to hit the legs of the pillion rider of the scooter.

I am of the view that it is the specific assertion in the statement of the complainant-Ankur that she was to go to Nakodar for which she was to first go to Nur Mahal. The truck was coming from Phillaur side on Phillaur-Nur Mahal Road. Therefore, the possibility is that the scooter was stopped with the facing towards Nur Mahal so that whenever the truck, which was driven very rashly, passes, the scooter can go towards Nur Mahal to reach Nakodar. The body of the Activa-scooter is such that the rear portion where the engine is located is bigger than the front side. Meaning thereby that the legs of the pillion rider of the Activa-scooter will be spread over its engine. It is observed that ladies usually sit on rear seat of two-wheeler with both legs on left side. In such circumstances, when the truck actually does not hit the scooter, it could hit the legs of the pillion rider. It is the specific case of the complainant-Ankur that when the truck hit the legs of Jiwan Jyoti, she fell on the ground, dragged to some distance and was crushed under the rear wheels of the truck. Medical evidence also shows that the body was virtually severed into two pieces. Therefore, it is a case of rash and negligent driving and was rightly believed by both the Courts below.

It being so, I do not find any merit in the present revision therefore, the same is hereby dismissed.

July 5, 2017

Suresh Kumar

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned	:	✓ Yes	/	No ✓
Whether Reportable	:	Yes	/	No