

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

**CRR 1857-2017 (O&M)
Date of decision: 07.09.2017**

Baljinder Singh @ Kaka**.....Petitioner****versus****State of Punjab****.....Respondent****CORAM: Hon'ble Mr.Justice Kuldip Singh**

Present: Mr.Ashish Aggarwal, Advocate for the petitioner
Mr.C.L.Pawar, Senior Deputy Advocate General, Punjab

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the judgment passed by learned Additional Sessions Judge, Amritsar dated 6.4.2017, affirming that of learned Judicial Magistrate First Class, Amritsar dated 6.1.2016, vide which, the petitioner was convicted under Sections 279 IPC and 304-A IPC and sentenced as under:-

<i>Under Section 304-A IPC</i>	<i>Rigorous Imprisonment for a period of one year.</i>
<i>Under Section 279 IPC</i>	<i>Rigorous Imprisonment for a period of six months.</i>

Both the sentences were directed to run concurrently.

The present case was registered on the complaint of ASI Dilbagh Singh, who stated that he accompanied by HC Satnam Singh, HC Dilbagh Singh, HC Pawan Kumar, HC Sita Ram and Constable Manjit Singh, was present at railway crossing Chabal road in connection with picketing duty. It was about 6.30 PM, a bus bearing registration no.PB-02-

AQ-9985 belonging to Majha Company came from Chabal side and crossed the railway crossing at a high speed and thereafter hit a pedestrian, who was going on left side of the road. After running over the said pedestrian, the bus stopped at some distance and the driver of the bus ran away leaving bus at the spot. The police party rushed to the place of accident and found the said pedestrian dead. A slip was recovered from his pocket from which the police came to know about his name and address.

In order to support its case, the prosecution examined the members of the policy party, namely, ASI Sita Ram (PW2) the then HC, ASI Satnam Singh (PW4) the then HC, SI Dilbagh Singh (PW7) the then ASI and HC Pawan Kumar (PW8).

SI Dilbagh Singh was examined in chief only and did not appear for cross-examination. Therefore, his examination-in-chief is to be discarded. However, the statements of two other witnesses ASI Sita Ram as well as HC Satnam Singh shows that they have supported the prosecution case and have clearly stated that the bus came in a rash and negligent manner and crossed the railway crossing. It is also mentioned in the statement of HC Pawan Kumar that there were speed breakers on both the sides of railway crossing. The bus after crossing the railway crossing hit a pedestrian who was going on left side of the road. The bus stopped at some distance and the driver ran away. Both ASI Sita Ram and HC Satnam Singh have stated that later on they came to know that Baljinder Singh accused was driving the bus. They also identified the said accused in the Court.

Learned counsel for the petitioner has argued that in this case, the complainant was not examined.

I am of the view that even if the statement of the complainant

SI Dilbagh Singh is discarded, there is sufficient evidence on file in the form of other eye witnesses, who were members of the police party, to prove the prosecution case.

Learned counsel has also relied upon the statement of Pawan Kumar who has stated that bus has hit the car and then hit Raju (deceased). I am of the view that the word used 'car' appears to be a slip of tongue. Otherwise, it is not a case of either party that the car was also involved in the accident.

Learned counsel for the petitioner has further stated that as per medical evidence, the bus apparently hit the face of the deceased, as a result of which, there were multiple fractures on the nose and face. The broken bone penetrated in the brain, causing instantaneous death of Raju. He has further argued that there is no crush injury. Site plan shows that dead body and the bus are in the same line. Therefore, the possibility is that bus probably hit the face of the deceased and he might have fallen between two wheels of the bus with the result that the bus crossed over the dead body but the body did not come under the wheels as the wheels/tyre of the bus did not pass over the dead body. There is an eye witness account which is not to be discarded.

Further reliance is placed on the statement of Arun Kumar (PW5), who has stated that the deceased was riding the bus and has jumped from the bus.

I am of the view that Arun Kumar was not present at the spot. He is not the eye witness. It is not case of the accused that he was not driving the bus and that the deceased was a passenger and he jumped from the bus neither any such suggestion was put to any of the witnesses nor any

such stand was taken in the statement of any witness.

It being so, I do not find any illegality or infirmity in the findings recorded by both the Courts below. According the present revision stands dismissed.

07.09.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No