

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

CRR No.2015 of 2017 (O&M)

Date of decision : November 30, 2017

Sanjay Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Inderjeet Singh, Advocate for the petitioner.

Ms. Monika Jalota, 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)

This is the revision against the judgment dated 22.03.2017 passed by learned Addl. Sessions Judge, Patiala, affirming that of learned Judicial Magistrate 1st Class, Rajpura dated 18.10.2016, vide which the petitioner was convicted for the commission of offence punishable under Section 304-A IPC and sentenced to undergo rigorous imprisonment for one year.

Heard.

As per complaint of Darshan Singh, on 20.05.2012, Chajju Singh was driving a tractor bearing registration No.PB-44-1749 with which a trolley loaded with chaff was attached. Balbir Singh and Naib Singh were sitting on the mudguard. They were going from village Badshahpur to Rajpura to sell the chaff. It was about 5.45 a.m., when they reached near village Dhindsa, a truck bearing registration No.HR-58A-1043 came from

opposite direction at a high speed in rash and negligent manner and also in zig-zag manner and struck head on against the tractor trolley. As a result of which, Darshan Singh was thrown out of the tractor trolley. As a result of the accident, the tractor broke into two pieces and was completely damaged. The occupants, namely Chajju Singh, Balbir Singh and Naib Singh were got seriously injured. The truck driver after leaving the truck behind fled away from the spot. Later on, it also comes out that Chajju Singh and Balbir Singh succumbed to injuries in the hospital.

As per prosecution evidence, Darshan Singh had visited the police station on 23.05.2012, where Sanjay Kumar, present petitioner was present and he was identified by the complainant. The police prepare the site plan and photographs were also got clicked. From the dash board of the truck, driving licence of present petitioner Sanjay Kumar was recovered. Sanjay Kumar himself surrendered before the police on 23.05.2012 and was taken into custody. In this case, the prosecution evidence was closed by orders. As a result of which, PW1 HC Sahib Singh could not be cross-examined and ASI Gursharan Singh also could not be examined.

Learned counsel for the petitioner has argued that in this case, the identification of petitioner Sanjay Kumr is not proved. It is also contended that recovery of the driving licence from the dash board of the truck is also not proved as HC Sahib Singh was not cross-examined and ASI Gursharan Singh, who made the recoveries, was also not examined. It is further contended that complainant Darshan Singh in his cross-examination has stated that he had seen the truck driver in the court for the first time and had not identified him in the police station.

A close scrutiny of the statement of complainant Darshan Singh shows that he was examined-in-chief on 11.04.2014 and his further examination-in-chief was deferred for want of case property. On the said date, he specifically stated that on 23.05.2012, had had gone to the police station for investigation of the case, he found the present petitioner Sanjay Kumar present there and he identified him as the driver of the offending truck. He also identified the present petitioner in the Court also as a person, who was driving the offending truck. However, when the cross-examination was conducted on 04.09.2015 i.e about 1 year 5 months later, Darshan Singh tried to retract his statement made in examination-in-chief by stating that he had not identified the truck driver in the police station and that he has seen the truck driver first time in the court.

The story regarding other witness Naib Singh is also same. He was examined in chief on 04.12.2014, in which he identified the present petitioner in the Court. However, his cross-examination was deferred and when he was cross-examined about two months later on 12.02.2015, he stated that at the time of the accident, he had not seen the truck driver.

I am of the view that when examination-in-chief was conducted on one date and cross-examination was deferred, it give sufficient time to the accused to win over the witnesses. In these circumstances, when the evidence of Darshan Singh is read as a whole, from examination-in-chief, it comes out that the petitioner was identified by complainant Darshan Singh in the police station on 23.05.2012. The petitioner himself surrendered before the police. If the petitioner was not involved in the crime, there was no reason for him to appear before the police to get himself arrested.

It being so, I am of the view that the identity of the petitioner is proved. So far as the negligence is concerned, the site plan and the photographs show that at the time of the accident, the truck was driven on its extreme right side, which hit the tractor trolley head on, which was coming from the opposite direction on its left side and dragged the tractor to some distance. The impact of the accident was such that the tractor was broken into two pieces and two persons lost their lives.

In these circumstances, I do not find any illegality or infirmity in the findings recorded by both the courts below. As such, the present revision petition is dismissed.

Since, the petitioner is on bail, he be re-arrested and committed to jail to undergo remaining part of the sentence.

(KULDIP SINGH)
JUDGE

November 30, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes