

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCRR-2149-2017 (O&M)
Date of decision: 17.07.2017

Arshad Ali

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.D.K.Bhatti, Advocate for the petitioner
Mr.Pawan Garg, Deputy Advocate General, Haryana

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?

Kuldeep Singh, J. (Oral)

This is revision against the judgment dated 30.5.2017, passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, affirming the judgment of conviction and order of sentence dated 2.5.2013, passed by learned Judicial Magistrate First Class, Jagadhari, vide which, the present petitioner was convicted for commission of offences punishable under Sections 279, 337 and 338 IPC and sentenced as under:-

1	Under Section 279 of IPC	Simple Imprisonment for one month
2	Under Section 337 of IPC	Rigorous Imprisonment for six months
3	Under Section 338 of IPC	Rigorous Imprisonment for one year

The brief facts which are required to be noted for the purpose of disposal of the present revision are that the present petitioner is a driver on Government Bus bearing registration no.UA-07-M-8325 belonging to Uttranchal Transport Corporation. On 19.3.2008, he was driving the said bus and coming from Saharanpur and going towards Yamuna Nagar. At about 12.30 / 12.45 pm, when he reached near Hindustan Petrol Pump,

village Dusani on Saharanpur – Yamuna Nagar highway, a tractor came from Yamuna Nagar side. Sitab Singh along with Rajbir @ Babloo and Vijay Pal @ Bittu were riding on the said tractor, in which, the trolley was attached. It is alleged that the present petitioner was driving the bus rashly and negligently and hit the tractor trolley, as a result of which, the tractor trolley was pushed to the ditches on the side of the road and all the three occupants of the tractor trolley received injuries.

Custody certificate dated 15/17.7.2017 filed in Court is taken on record.

I have heard learned counsel for both the parties and have also carefully perused the record.

Learned counsel for the petitioner has raised the contention that in this case the petitioner was not negligent. Bus was being driven on a highway and is supposed to be on high speed. He has referred to the statements of all the three injured made in the Court, namely, Sitab Singh (PW1), Vijay Pal (PW2) and Rajbir (PW3), who have stated in examination-in-chief that the bus was being driven at high speed. They have not stated that it was being driven rashly and negligently. All of them have denied the suggestion that the tractor trolley was taking a turn towards Hindustan Petrol Pump to fetch the diesel. They have also admitted that they had gone to the local market for sale of the wood in the morning and that after selling the wood they were coming back. In this case, evidence of the prosecution was closed by order. With the result that the investigating officer could not be examined. However, the site plan prepared by the investigating officer and relied upon by the prosecution is on file. Similarly, report of the mechanic was also proved. Photographs of the place of accident were also there. In

order to find out as to whether the bus was being driven rashly and negligently, photographs of the place of accident are examined. Photographs clearly show that bus hit the right side of the tractor and not the front side. Both the bus and the tractor were driven to the side of the road and stopped on the Kacha portion.

Now, the question would arise if the bus coming from Saharanpur side will hit the tractor coming from the opposite side, it will hit the tractor on front right and not the right side. The collision on the right side of the tractor is possible only if the tractor takes turn towards left side. Both the Courts below failed to appreciate that the trolley was also attached to the tractor. It is apparent that the tractor took a sudden turn towards left side. The photographs makes it clear that only the right side of the tractor was hit and the trolley and the rear side of the tractor are intact. It goes to show that the tractor had taken a sudden turn to the left while going from Yamuna Nagar to Saharanpur. The bus on the highway is supposed to be at high speed. Therefore, on perusal of the photographs, apparently it is a fault of the tractor driver, who took sudden turn towards left side with the result that the bus hit right side and not the front side of the tractor. As such, it cannot be called a rash and negligent act of the driver/ present petitioner. Accordingly, the present petition is allowed. Judgments and order passed by both the Courts below are set aside. Petitioner is acquitted of the charges framed against him. The petitioner be released forthwith if not required in any other case.

17.07.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No