

**CRR-228-2017**

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

**CRR-228-2017 (O & M)**

**Date of Decision: 07.04.2017**

Baljinder Singh alias Goga

... Petitioner

Versus

State of Punjab

... Respondent

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

Present: Ms. Balpreet Sidhu, Advocate,  
for the petitioner.

Mr. V.P.S.Sidhu, AAG,Punjab.

**INDERJIT SINGH, J.**

The present revision has been filed by petitioner-Baljinder Singh alias Goga against respondent-State of Punjab under Section 401 Cr.P.C. challenging the impugned judgment of conviction and order of sentence dated 21.12.2015 passed by learned Judicial Magistrate Ist Class, Abohar vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three months under Section 279 IPC; to undergo rigorous imprisonment for a period of three months under Section 337 IPC; to undergo rigorous imprisonment for a period of six months under Section 338 IPC and to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹2,000/- and

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in default of payment of fine, to further undergo simple imprisonment for a period of 15 days under Section 304-A IPC and also challenging the judgment dated 16.11.2016 passed by learned Additional Sessions Judge, Fazilka, vide which appeal filed by the petitioner was dismissed.

Notice of motion was issued. Learned State counsel put in appearance on behalf of the respondent-State and contested this revision.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that challan was presented against the petitioner in FIR No.112 dated 27.12.2010, registered at Police Station City-II, Abohar, under Sections 279, 337, 338, 427 and 304-A IPC. The brief facts of the case, as noted down in the judgment passed by learned Judicial Magistrate Ist Class, Abohar, are as under:

*“2. In brief, the case of prosecution is that on 27.11.2010 one ruqa bearing No.2389 dated 27.11.2010, received to police station. Upon which ASI Baljinder Singh alongwith other police officials went to the Civil Hospital, Abohar where he came to know that injured Mangal Singh was referred to Bathinda and where Deepak Chhabra was present and he got recorded his statement that at about 5 P.M., he on his Activa Scooty along with Suresh Kumar son of Jagdish Lal were coming to Abohar from Ganganagar Bypass side and ahead from his motor-cycle Naresh Kumar son of Madan Lal alongwith Mangal Singh sitting on the rear seat of the motorcycle Hero Honda were going. When they*

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*were reached near the sunrise marble at that time one tractor Eicher coming from the front side which was driven by accused Baljinder Singh @ Goga son of Waryam Singh in fast speed and hit into the motorcycle of Naresh Kuamr wihtout giving horn. Consequent to which Naresh Kumar died at the spot and Mangal Singh @ Buntty son of Harbans Singh received injuries and motorcycle was badly damaged. Then at the spot Rajat Luthra care of Balaji Manav Sema Samiti came and Mangal Singh got admitted by him in the Civil Hospital, Abohar. Accused Baljinder Singh was driving the tractor in rash and negligent manner so Naresh Kumar was died and Mangal Singh received injuries, so the action against Baljinder Singh accused may be taken. Investigations were launched. Site plan was prepared, photographs were taken and accidental vehicles were taken into possession and statement of witnesses were recorded. Post-mortem of deceased Naresh Kumar was got conducted from the Civil Hospital. On completion of investigation and other formalities, challan was presented in the Court against the accused.”*

In support of its case, the prosecution examined PW 1 complainant-Deepak Chhabra, PW 2 Sidharth, PW 3 Kanwaljit Singh, PW 4 Dr. K.D.Vishisht, PW 4 Suresh Kumar (wrongly again numbered as PW 4 in place of PW 5), PW 6 Raj Kumar, PW 7 Hardyial Singh, PW 8 HC Harbans Singh, PW 9 HC Kulwant Singh, PW 10 Sandeep Kumar, PW 11 Rajat Luthra, PW 12 ASI Davinder Singh, PW 13 ASI Baljinder singh, PW 14 Sunil Kumar, PW 15 SI Baljinder singh, PW 16 Dr. Lal

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Chand, PW 17 Harcharan Singh, PW 18 Mangal Singh and thereafter the prosecution evidence was closed.

When the accused was examined under Section 313 Cr.P.C., he denied all the allegations and pleaded false implication in the present case. However, no evidence was led by him in his defence.

Learned Judicial Magistrate Ist Class, Abohar, 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 Additional Sessions Judge, Fazilka, vide impugned judgment dated 16.11.2016.

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

At the time of arguments, learned counsel for the petitioner argued that neither the identity of the accused nor his negligence is proved. As per the mechanical report, no dent on the motorcycle has been proved. The findings given by the courts below are perverse and against the evidence and, therefore, the revision petitioner is entitled to acquittal of the charges framed against him.

After going through the judgments passed by the courts below especially the judgment passed by the trial Court, I find that as per the prosecution version, complainant-Deepak Chhabra alongwith Suresh Kumar was coming to Abohar from Ganganagar Bypass side on his Activa Scooty and ahead of them, Naresh alongwith Mangal Singh

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sitting on the rear seat was going on his motorcycle. When they reached near sunrise marble, one Eicher tractor coming from the front side which was being driven by accused-Baljinder singh @ Goga in a fast speed, hit into the motorcycle of Naresh Kumar without blowing horn, due to which, Naresh Kumar died at the spot and Mangal Singh received injuries and motorcycle was badly damaged.

From the evidence as given by the prosecution witnesses, I find that they have consistently deposed regarding the identity of accused as well as negligent driving of the tractor-trolley by the accused. It is in the statement of PW 1 complainant-Deepak Chhabra that the accused brought the tractor by negligent driving and hit into the motorcycle of Naresh Kumar, who died at the spot. PW 4 Suresh Kumar (wrongly numbered as PW 4 in place of PW 5) also deposed that the tractor-trolley was being driven by the accused rashly and negligently and the accused hit the tractor-trolley into the motorcycle of Naresh Kumar. Nothing has been pointed out as to how the statements of these prosecution witnesses are to be disbelieved. PW 7 Hardayal Singh gave the mechanical report qua the motorcycle as Ex.PW 7/A which shows that steering of the motorcycle was damaged and head-light was also found broken etc. The accused left the tractor-trolley at the spot as it was taken into police possession on the same day when the FIR was registered whereas the accused was arrested after some days. The witnesses had sufficient time to see the driver of the tractor-trolley. In no

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way, it can be held that identity of the accused has not been established.

Perusal of the impugned judgments shows that both the courts below have recorded concurrent findings after appreciating the evidence in right perspective. In no way, the findings can be held as perverse or against the law. Moreover, this is a revision petition and in the revision petition, this Court is not to re-appreciate the evidence, like Court of an appeal and this Court is only to see whether any finding is perverse or some material evidence has not been considered. At the time of arguments, learned counsel for the petitioner failed to point out as to which material evidence has been misread or which material evidence has not been considered by the courts below.

From the above, I find that the concurrent findings given by both the courts below are correct, as per law and do not require any interference from this Court and, therefore, the same are upheld.

Resultantly, finding no merit in the present revision petition, the same is dismissed.

**07.04.2017**

parveen kumar

**(INDERJIT SINGH)  
JUDGE**

|                           |   |     |
|---------------------------|---|-----|
| Whether speaking/reasoned | : | Yes |
| Whether reportable        | : | No  |