

CRR-2740 of 2017 (O&M)

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

CRR-2740 of 2017 (O&M)
Date of Decision: 11.08.2017

Amarjit Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Bhanu Pratap Singh, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Challenge in this revision petition has been laid to the judgment dated 15.05.2017 of the First Appellate Court affirming the judgment of conviction and order of sentence dated 13.05.2015 of the trial Court holding the petitioner guilty and sentencing him to undergo rigorous imprisonment for a period of 1½ year under Section 304-A IPC and rigorous imprisonment for a period of six months under Section 279 IPC.

Briefly stated, on 12.06.2012 at about 8:30 p.m., Gian Singh along with his son Davinder Singh (since deceased) was going on foot towards his house on the left side of the road. When they tried to turn towards their house, suddenly a Discover motorcycle without number, having three riders came from behind in a rash and negligent manner and struck against Davinder Singh. As a result, Davinder Singh fell on the road receiving multiple injuries on his head and other parts of the body. On the next day, he succumbed to his injuries, suffered in the said accident. During

investigation, petitioner was found to have caused the accident while driving his motorcycle in a rash and negligent manner and arrested. After

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thorough investigation, final report under Section 173 Cr.P.C. was filed in the Court against him and accordingly, he was charge-sheeted under Sections 279 and 304-A IPC.

The trial Court, after recording the prosecution evidence and the statement of the petitioner under Section 313 Cr.P.C., putting entire incriminating material came on the record against him and hearing both the sides, held the petitioner guilty and convicted him in the manner, as narrated above, in the opening part of the judgment.

In appeal also, the petitioner remained unsuccessful and for that reason, he has come up before this Court in revision.

Learned counsel for the petitioner contends that both the Courts below have failed to appreciate that the prosecution has not been able to establish the identity of the petitioner beyond any reasonable doubt. The accident had taken place at around 8:30 p.m. in the night. The petitioner could not have been identified by PW2 complainant Gian Singh on account of darkness. PW2 complainant Gian Singh has admitted in his cross-examination that due to darkness, he could not read the registration number of the offending vehicle. The prosecution did not examine Gurpreet Kaur, sister of the deceased and her son, who had also reached the spot after the accident and their non-examination is fatal to the prosecution case.

I have given anxious consideration to the submissions made by learned counsel for the petitioner.

On the fateful day, complainant Gian Singh along with his deceased son Davinder Singh was going on foot towards his village. The presence of the aforesaid complainant on the spot has gone unchallenged.

The petitioner, in his statement recorded under Section 313 Cr.P.C. did not deny that they were not three riders on the motorcycle at the time of

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accident. The said factum itself is sufficient to draw an adverse inference against the petitioner that motorcycle was being driven by him in a rash and negligent manner in violation of the Motor Vehicles Act. Qua establishing the identity of the petitioner, there are concurrent findings of the trial Court as well as of the First Appellate Court against the petitioner and no fruitful argument has been raised before this Court, except referring to the few lines of cross-examination of complainant Gian Singh, which do not put any dent in the prosecution story if his statement is read as a whole in view of the settled proposition of law that the statement of witness has to be read as a whole and not in isolation.

In view of the above discussion, I do not find any illegality or perversity in the impugned judgments passed by both the Courts below. Consequently, the same are affirmed and revision petition is dismissed.

August 11, 2017
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No