

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

**CRR No.3368 of 2017 (O&M)
Date of Decision: November 06, 2017**

Dilshad Ahmad

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Brighu Dutt Sharma, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Dilshad Ahmad Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 05.02.2016 passed by learned Judicial Magistrate Ist Class, Phillaur, vide which the petitioner was convicted and sentenced to undergo simple imprisonment for a period six months under Section 279 IPC, to undergo simple imprisonment for a period of two years and to pay fine of ₹5000/- and in default of payment of fine, to undergo simple imprisonment for a period of six months under Section 304-A IPC and further to undergo simple imprisonment for a period of one month under Section 427 IPC and also challenging the judgment dated 02.08.2017 passed by learned Addl. Sessions Judge, Jalandhar, vide which appeal filed by petitioner was dismissed.

From the record, I find that challan was presented against

accused-petitioner in case FIR No.136 dated 06.10.2011 under Sections

304-A, 279 and 427 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Phillaur, are as under:-

“2. In brief the prosecution story is that on 6.10.2011 ASI Harjit Singh Chowki Incharge Dosanjh Kalan along with police party was on patrol duty where Shingara Ram son of Satpal came present and suffered his statement that he is resident of Saheed Bhagat Singh and doing the work of Tailor. On that day i.e. 6.10.2011 his father Satpal and maternal uncle of his father Nirmal Singh were going on a T.V.S PB 32G-1438 to attend the marriage at village Dhani. His father was going on his T.V.S at about 12.15 PM day time when they reached near Virka Colony Phagwara Road then immediately from the front side from Phagwara one Three wheeler PB 09-L-9127 Marka 'Bajaj' blue colour closed body came at a very high speed which was driven by its driver rashly and negligently. The driver did not give any signal and dashed the Three wheeler into T.V.S. His father died bringing the Three wheeler on wrong side but due to collusion his father's uncle Nirmal Singh died on the spot and his father received injuries on his head and other body parts. He arranged for the vehicle but his father died on the way to Civil Hospital, Phagwara. Accused ran away from the spot but he can identify on seen him. He called his family members and handed over the body of his father and uncle to Amrit Lala and Balbir Ram. The accident took place due to rash and negligence driving of driver of Three wheeler PB 09-L-9127. During the accident T.V.S of his father was also broken and damaged. Action be taken.”

In order to prove its case, prosecution examined PW-1 Dr. Upinder Singh, PW-2 SI Harjit singh, PW-3 Balbir Ram, PW-4 Shigara Ram, PW-5 Amrit Lal, PW-6 HC Chaman Lal, PW-7 Sukhwinder Singh, PW-8 HC Harjit Singh, PW-9 Satish Jha and closed the evidence.

In the statement under Section 313 Cr.P.C., the accused denied all the incriminating evidence and pleaded his innocence. No witness was examined in defence.

Learned JMIC, Phillaur, after appreciating the evidence, convicted and sentenced the petitioner as stated above. Appeal was filed by

the petitioner and the same was dismissed by learned Addl. Sessions Judge,

Jalandhar, vide judgment dated 02.08.2017.

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

At the time of arguments, learned counsel for the petitioner argued that identity of the accused has not been proved. The presence of the witnesses at the spot is doubtful. There was no negligence on the part of auto driver and the site plan also shows that driver of the TVS Scooty was coming on wrong side.

I have heard learned counsel for the petitioner and have gone through the entire record including lower Court record.

From the record, I find that as per the case of the prosecution, present petitioner was the driver of the three-wheeler and he hit the TVS Scooty. Nirmal Singh and Satpal died in this accident.

The perusal of the judgments passed by the Courts below show that findings have been given while appreciating the evidence in right perspective. Nothing has been pointed out as to what illegality has been committed by the Courts below. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below. No material discrepancies or improbabilities in the version have been pointed out. There is nothing to doubt the presence of the PWs. The PWs have consistently deposed regarding the prosecution version. The witnesses are reliable witnesses. There is nothing on the record to show that findings are against the evidence or perverse. There is also nothing in the cross-examination of the PWs, which may make their statements unreliable.

wheeler at the spot and there was sufficient opportunity with the witnesses to see the accused. The accused has been identified by the witnesses in the Court and furthermore, PW-9 Satish Jha has also supported the prosecution version. In the examination-in-chief, he has stated that he is the owner of the three-wheeler and Dilshad Ahmad was his driver on monthly salary of ₹3000/-. Though, later on, when this witness was cross-examined, he denied these facts. The statement of a hostile witness can also be relied upon in part, which supports the prosecution or defence version. The examination-in-chief supports the prosecution version. Otherwise also, PWs have identified the accused in the Court, which is a substantial piece of evidence. No defence evidence has been led nor any suggestion was put to the witness that TVS Scooty was coming from the wrong side and deceased were negligent and due to their negligence, the accident occurred. The rash and negligent driving of the present petitioner has been duly proved by the PWs.

In view of the above discussion, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgments of conviction and order of sentence passed by both the Courts below are correct, as per law and do not require any interference from this Court.

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

November 06, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No