

**112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR No.359 of 2017 (O&M)
Date of decision : July 13, 2017****Harjit Singh****..... Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE KULDIP SINGH****Present:-** Mr. Sukhjit Singh, Advocate for the petitioner.

Mr. C.L. Pawar, Sr. 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)

The present revision petition is directed against the judgment dated 15.12.2016 passed by learned Sessions Judge, Sangrur, affirming the judgment of conviction and order of sentence dated 31.03.2015 passed by learned Sub Divisional Judicial Magistrate, Malerkotla, whereby the accused-revisionist was convicted and sentenced as under:

<i>Sr. No.</i>	<i>Offence u/s</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of payment of fine</i>
1	279 IPC	R.I. for six months	--	--
2	304-A IPC	R.I. for one year	₹5,000/-	R.I. for one month

Both the sentences were directed to run concurrently.

Brief facts of the case are that on 08.07.2010, one Naved, aged about 18-19 years was going on his motorcycle Hero Honda Passion bearing registration No.PB-56B-0893. He was being followed by his brother

Khurshid Alam, complainant. At about 11.00 a.m., when they reached in between the electricity grid and Civil Hospital, a truck bearing registration No.PB-23H-7407, which was loaded with iron rods, pipes and gunny bags, driven rashly and negligently hit the motorcycle of Naved from back side. As a result of which, Naved fell down and crushed under the tyres of the truck. Khurshid Alam raised alarm but he could not read the number of the truck as there was mud over the number plate. It also comes out from the evidence that one Mohd. Sardar, PW3 was also present there and he also witnessed the occurrence. In the statement, which police recorded on the next day, he mentioned the number of truck as well as the name of the accused, stating that he had identified the truck driver Harjit Singh at the spot. The other witness Mohd. Tahir, PW9 also named the accused in the crime, stating that on coming to know about the accident, he chased the truck on motorcycle and noted down its number. During the investigation, the statement of Dev Raj, PW5, owner of the truck was also recorded.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel for the accused-revisionist has argued that the identity of the accused is not established. He has stated that complainant Khurshid Alam is the eye witness of the occurrence but he could not mention the number of the truck. The accused-revisionist was named by two witnesses, namely, Mohd. Sardar, PW3 and Mohd. Tahir, PW9. It is also stated by Mohd. Sardar in his cross-examination that he had seen the accused in the police station. No identification parade was held. He had not identified the accused.

It is further contended that the statement of Mohd. Tahir, PW9 is not dependable since he claimed that on coming to know about the accident he chased the truck with one Dara (Mohd. Sardar, PW3).

After going through the lower court record and examining the same, I am of the view that the statement of Dev Raj, PW5 owner of the truck shows that Dev Raj, PW5 is the owner of the truck. He has stated in his examination that on the day of accident, Harjit Singh (accused-revisionist) was driving the said truck. They both used to load the trucks together. Therefore, it is established from the statement of the owner of the truck that on the day of occurrence, Harjit Singh was driving the truck.

Now, the question is regarding identity of the truck involved in the incident. The statement of Mohd. Sardar shows that he had clearly stated in his cross-examination that he had witnessed the incident and he remembered the number of the truck orally and mentioned the same to the police. There are shops near the place of occurrence. Therefore, it is not a case where the accident took place in a secluded place.

Mohd. Tahir, PW9 also stated that when he reached the place of occurrence, he came to know about the incident. He followed the truck on his motorcycle for 3 kms. and noted down the number of the truck but he could not catch the driver of the truck and did not proceed further. Therefore, number of truck is also established from the evidence of these two witnesses. It was never suggested to PW3 Mohd. Sardar that he had not witnessed the accident. There is no reason for Dev Raj, PW9 to state that the accused-revisionist was the driver of his truck on the day of occurrence.

When the accused-revisionist was arrested, he never made any complaint to any authority that he has been falsely implicated. Accused-revisionist did not lead any defence evidence. Therefore, from the evidence led by the prosecution, the identity of the truck and the accused is duly established. Therefore, there is no illegality or infirmity in the findings recorded by both the courts below.

Faced with this situation, learned counsel for the petitioner prays for reduction in the sentence, stating that the accused-revisionist has minor children to look after and he is the only bread earner of the family.

I am of the view that in this case, a young boy of 18-19 years was crushed under the wheels of the truck and met with a tragic end. In the circumstances, the sentence of one year cannot be called excessive or harsh. Thus, there is no ground to reduce the sentence.

As a result of the foregoing discussion, I do not find any merit in the present revision petition. As such, the same is dismissed.

(KULDIP SINGH)
JUDGE

July 13, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes