

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRR-3802-2017 (O&M)
Reserved on 13.10.2017
Pronounced on:26th October,2017

Harnarayan Singh ..Petitioner

versus

State of Punjab ..Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. B.K.Mehta, Advocate, for the petitioner.

RAMENDRA JAIN, J.

1. Through the instant revision, the petitioner has assailed the judgment of conviction and order of sentence dated 19.9.2017 of the first appellate court, dismissing the appeal filed by the appellant, thereby affirming the judgment of conviction and order of sentence dated 16.4.2015 of the trial court for the offence under sections 279 and 304-A IPC, in the following terms:-

1. 279 IPC To undergo RI for a period of 6 months and pay a fine of Rs.1000/-. In default thereof, he was further directed to undergo RI for a period of one month.
2. 304-A IPC To undergo RI for a period of 1 ½ years and pay a fine of Rs.1000/-. In default thereof, he was further directed to undergo RI for a period of one month.

Both the substantive sentences were ordered to run concurrently.

2. Briefly stated the facts of the prosecution case are that on receipt of a medical ruqa from Apex Hospital, Nawanshahar with respect to admission of injured Rohit Shorry, who sustained injuries in a vehicular accident, ASI Prem Pal along with his team reached there and came to know that the injured was admitted to Max Hospital, Mohali. Consequently, ASI Prem Pal reached Max Hospital, Mohali and sought the opinion of the doctor treating the injured. The doctor declared the injured unfit to make a statement. ASI Prem Pal, while coming back, when was present at Chandigarh Chowk, Nawanshahar, Ankush Sambar along with one Jatan Sharma met him there and got his statement recorded to the effect that on 25.3.2012, he was going from Barnala Chowk to Nawanshahar on a motor-cycle make 'Hero Honda Ambition' bearing registration no. PB-32-E-8344, being driven by him at a slow speed taking along with him Rohit Shorry as a pillion rider. At about 4.00/4.15 PM, when they reached in front of Rehal Furniture House, a car make 'Indigo' bearing registration no. PB-01-9925, being driven at a high speed and in a rash and negligent manner, collided with their motor-cycle from its rear side and as a result thereof, his friend Rohit Shorry banged with the front glass of the car, fell down on the road and sustained grievous injuries. He also fell down on the road towards his back side. The driver of the offending car alighted and asked about their well being. He disclosed his identity as Harnarayan Singh son of Surinder Singh, resident of village Surapur, District SBS Nagar.

3 In the meantime, people gathered at the spot. On seeing them, the accused sped away from the spot while leaving the car. He along with his friend Rohit Shorry was taken to Apex Hospital, Nawanshahar, but on

seeing the deteriorating condition of the injured, he was referred to Max Hospital, Mohali. His Motor-cycle had also damaged. The accident took place due to rash and negligent driving of the driver of the offending car and action may be taken against him.

4. A ruqa was sent through Constable Gagandeep Singh for formal registration of the FIR. The investigation was carried out. On receipt of information regarding death of injured Rohit Shorry from Max Hospital, Mohali, the post mortem of the dead body was got conducted from Civil Hospital, Nawanshahar and offence under section 304-A was added. After completion of necessary formalities, the police presented a final report before the Ilaqa Magistrate under section 173 of the Code of Criminal Procedure.

5. After complying with the provisions as enshrined under section 207, Code of Criminal Procedure, charges under sections 279/337 and 304-A IPC were framed against the petitioner, to which he pleaded not guilty and claimed a trial.

6. After closure of the evidence by the prosecution, the statement of the accused under section 313 of the Code of Criminal Procedure was recorded, wherein he denied all incriminating evidence came on record against him. He pleaded his false implication in the case. However, he, even after availing an opportunity, chose not to produce any evidence in defence.

7. Learned counsel for the appellant has vehemently argued that there is a delay of 27 ½ hours in lodging the FIR, which is fatal to the case of the prosecution, inasmuch as the police station was only half a kilometer away from the alleged place of accident. Learned counsel, while referring to the statement of the petitioner under section 313 of the Code of Criminal

Procedure, urged that the entire evidence adduced by the prosecution was not put to him while recording his statement under the aforesaid section. Both the learned courts below have misread and misconstrued the evidence of the prosecution while recording the conviction and sentence of the petitioner.

8. Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this court is of the view that the instant revision, being without any merit, fails and deserves to be dismissed for the reasons to follow:-

9. The contention of the learned counsel for the appellant that there was a delay of 27 ½ hours in registering the FIR by the police, lost its significance, inasmuch as after the accident had taken place, the paramount consideration was to save the precious life of the person, who was struggling between life and death and not to report the matter to the police. However, from the testimony of complainant PW2 Ankush Sambar, it is categorically evident that he had reported the matter to the police in time, which fact is corroborated by the deposition of PW-1 HC Jujhar Singh, who, on the direction given by PW-5 ASI Prem Pal, the Investigating Officer, reached the place of accident and took digital photographs of the spot, where the accident had taken place on 25.3.2012, i.e., the date of accident. Meaning thereby that, the intimation with respect to the accident, was immediately given to the police. Therefore, delay of 27½ hours in registering the FIR by the police can not at all be said to be fatal to the prosecution, keeping in view the fact that complainant PW2 Ankush Sambar, who was, admittedly, driving the Motorcycle, also sustained injuries in the accident and was also getting medical aid, had reported the matter to the

police on 25.3.2012 ,i.e., the date of accident. In the facts and circumstances of the case, the approach of the learned lower appellate court in recording the finding that “after an accident, the prime concern for the injured is to get immediate medical help than to inform the incident to police”, in my considered view, is quite right and does not call for interference.

10. So far as the plea that the entire incriminating evidence has not been put by the prosecution while recording the statement of the accused under section 313 Cr.P.C is concerned, this court is of the view that after the petitioner was confronted with the incriminating material on the record, in the shape of evidence, he was afforded an opportunity to produce evidence in defence, but after availing the same, he did not produce even an iota of evidence to prove that he had been falsely implicated in the case.

11 Having gone through the statement of the accused under Section 313 of the Code of Criminal Procedure recorded in the shape of questions and answers, this court does not see any illegality or irregularity in recording thereof, especially when he was put a question “why the witnesses go against, why the case has been registered against you? In reply to this question, the answer was “ the witnesses have deposed falsely and a false case has been registered against me.” In reply to another question put to him that “Do you wish to say anything else further?, the answer was “ I am innocent and have not committed any offence.” Surprisingly enough, despite availing opportunity to lead evidence in defence, the petitioner could not be able to produce even an iota of evidence in support of his plea that he was innocent and had not committed any offence. The petitioner has not been able to show any animosity with the police that he had been falsely implicated in this case. This plea of the petitioner is further falsified from

the fact that he was produced before the police by PW 10 Karnail Singh himself, the owner of the offending vehicle, under whom he was employed, which fact has not been denied nor any suggestion was put to the witnesses at any stage of the case. He even did not raise this plea in his statement recorded under section 313 of the Code of Criminal Procedure that he was produced by the owner of the offending vehicle against his wishes. If at all, the plea of the petitioner that he was innocent, had not committed any offence, and was produced by the owner of the vehicle wrongly, he could have proved the version of the prosecution falsified by adducing cogent and convicting evidence in support of his plea before the trial court. Therefore, the argument that the entire incriminating evidence has not been put to the accused during the statement recorded under section 313, Code of Criminal Procedure, in my considered view, is misconceived and an after-thought, inasmuch as the same was not raised before the learned courts below. It is for the first time that this argument has been introduced before this court and the same is being discussed and dealt with on appreciation of ocular as well as documentary evidence elaborately as noted hereinabove. Therefore, keeping in view the facts and circumstances of the case, it stands fully proved beyond doubt that the petitioner was employed as a driver and he was driving the offending vehicle at a high speed in a rash and negligent manner, thereby causing an accident with the motor-cycle bearing registration no. PB-32-E-8344, resulting in the death of Rohit Shorry. Had the speed of the offending car bearing registration no. PB-01-9925 within limit, the accident could have been averted and the precious life of a human being could have been saved. The approach of the learned courts below in convicting and sentencing the petitioner, in my considered view, is correct,

based on appreciation of ocular as well as documentary evidence available on the record and as such, do not call for interference.

12. In view of the foregoing reasons, I do not find any infirmity or perversity in the impugned judgments passed by both the courts below in exercise of revisional jurisdiction that may warrant interference by this court. Consequently, revision, being without any merit, fails and is dismissed.

26th October, 2017
VK

(RAMENDRA JAIN)
JUDGE

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| 1. | Whether reasoned/speaking | Yes/No |
| 2. | Whether Reportable: | Yes/No |