

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.34257 of 2017
and
Criminal Revision No.3939 of 2017 (O&M)

.....

Date of decision:27.10.2017

Raj Kumar

...Petitioner

v.

State of Punjab

Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Lekh Raj Sharma, Advocate for the petitioner.

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Inderjit Singh, J.

Cr. Misc. No.34257 of 2017:

For the reasons mentioned in the criminal miscellaneous application, the delay of 162 days in filing the revision petition is condoned.

The criminal miscellaneous application stands disposed of.

Cr. Rev.3939 of 2017:

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned judgment dated 15.2.2017 passed by learned Additional Sessions Judge, Amritsar, vide which the appeal filed against the judgment of conviction and the order of sentence dated 1.11.2016 passed by the learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, whereby the appellant had been convicted and sentenced to undergo rigorous imprisonment for two years and to pay a fine of ₹2,000/- and in default of

payment of fine to undergo simple imprisonment for a further period of two months for the offence under Sections 304-A and further to undergo rigorous imprisonment for six months and to pay a fine of ₹1,000/- and in default of payment of fine to undergo simple imprisonment for a further period of one months for the offence under Section 279 IPC 279 IPC in FIR No.33 dated 22.04.2013 registered for the offences under Sections 304-A, 279 and 427 IPC at Police Station Khilchian, has been dismissed.

From the record, I find that the challan had been filed in FIR No.33 dated 22.4.2013 registered for the offences under Sections 304-A, 279 and 427 IPC against the present petitioner Raj Kumar. The brief facts of the case as noted down by the learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar, in his judgment dated 1.11.2016, are as under:-

“Brief facts of the prosecution case are that the present case was registered against the accused on the statement of Sarabjit Singh son of Swaran Singh, resident of Timmowal, Police Station, Khilchian, Amritsar, in which he stated that he is resident of above said address. On 22.4.2013 at about 1.00 p.m. he alongwith Karamjit Singh son of Sajjan Singh in connection with business work, was going towards Rayya from his village Timmowal, on his motorcycle. His brother Gurmeet Singh alongwith his wife Palwinder Kaur, on his motorcycle bearing No.PB-02-AV-8417 to deposit the fee of their son was going towards Rayya Bank. Their motorcycle was going ahead

of them. When they were short of petrol-pump of Village Khilchian, then a bus bearing No.KA-19AD-4858 at a very high speed came from the side of Amritsar and the driver of the bus struck the same firstly with his motorcycle and then struck with the motorcycle of his brother. His brother and sister-in-law received injuries in the accident and as a result of which his brother died at the spot. He after making the arrangement was going to admit her in a hospital, but on the way, she also died. The motorcycle of his brother, was also badly damaged. A case under Sections 304-A, 279, 427 IPC was registered and investigated. The bus bearing No.KA-19AD-4858 was taken into police possession. On 29.4.2013, accused was arrested. Thereafter, on completion of other necessary formalities of investigation, challan was prepared and presented against the accused in the Court.”

The learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, after appreciating the evidence convicted the accused for the offences under Sections 304-A and 279 IPC and sentenced him to undergo rigorous imprisonment for six months and to pay fine of ₹1,000/- and in default of payment of fine to further undergo simple imprisonment for a further period of one month for the offence under Section 279 IPC. He was further sentenced to undergo rigorous imprisonment for two years and to pay fine of ₹2,000/- and in default of payment of fine to further undergo simple imprisonment for two months for the offence under Section 304-A IPC.

Aggrieved from this judgment and order an appeal was filed by the convict/ present petitioner, which was dismissed by the learned Additional Sessions Judge, Amritsar vide judgment dated 15.2.2017. Aggrieved from this judgment, the present revision petition has been filed.

From the record, first of all I find that concurrent findings have been given by the Courts below consistently. Both the Courts below have appreciated the evidence in right perspective. In no way, these judgments can be held as perverse or against the law. Nothing has been pointed out as to which material evidence has been misread by the Courts below and which material evidence has not been considered by the Courts below.

Learned counsel for the petitioner mainly argued on one point that there is no identification parade conducted during the investigation of the accused to establish the identity. This argument has been dealt with by both the Courts below correctly as per evidence and law. The complainant is the eye witness, who identified the accused in the Court. The accused after the accident had left the bus on the spot which means that there was sufficient time for the witness to see the accused. Further more, there is no delay in recording the FIR and particulars regarding bus and other details are duly noted and the bus was taken into Police possession. Both the Courts below have relied upon the evidence that the identification in the Court in the facts and circumstances of the present case is a good identification in the eyes of law and the identity has been established.

Keeping in view the above discussion, I find that the findings given by the Courts below are correct as per evidence and law. The

witnesses had deposed consistently against the accused/petitioner. The identity has been established. There is nothing in cross-examination to disbelieve their statements. The witnesses are reliable and had been relied upon by both the Courts below correctly. Therefore, the judgments passed by the both the Courts below are correct as per evidence and law. As two persons had died due to rash and negligent driving of the accused/petitioner, therefore, no ground is made out for reducing the sentence.

From the above discussion, I find no merit in this criminal revision petition and the same is dismissed.

October 27, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No