

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRR No. 4033 of 2017 (O&M)

Date of Decision: 07.11.2017

**ATAL SINGH**

**...Petitioner**

**VS.**

**STATE OF HARYANA**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.**

Present: Mr. G.S. Shahpuri, Advocate,  
for the petitioner.

\*\*\*

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)**

Impugned in the present revision petition is the judgment dated 09.10.2017 passed by the learned Sessions Judge, Faridabad affirming the judgment of conviction dated 02.06.2016 and order of sentence dated 04.06.2016 passed by the learned Judicial Magistrate Ist Class, Faridabad vide which the petitioner was convicted and sentenced as under : -

*Under Section 279 of IPC*

*Simple Imprisonment for a period of three months*

*Under Section 337 of IPC*

*Simple Imprisonment for a period of three months*

*Under Section 338 of IPC*

*Simple Imprisonment for a period of six months and pay a fine of ₹ 500/-. In case of non-payment of fine the convict shall further undergo simple imprisonment for a period of seven days.*

However, all the sentences were directed to run concurrently.

It is necessary to mention here that Dhan Singh-complainant has also filed a cross-appeal for enhancement of sentence awarded to accused-petitioner which was also dismissed by the above mentioned judgment dated 09.10.2017 passed by the learned Sessions Judge, Faridabad.

The brief facts of this case are that on 02.03.2013 at about 8.00 P.M., Akash was going towards village Sahupura to deliver food to his father Subhash on his motorcycle bearing registration No. HR-29-AD-6081. After crossing the village, when he reached in front of Government Hospital of his village, Atal Singh, accused-petitioner belonging to the village of the victim was seen coming from the opposite side driving a tractor with which one rotavator was attached. The driver hit rotavator of his tractor into the motorcycle of Akash as a result of which right leg of Akash stuck in the rotavator and got amputated. Many people gathered at the spot. The driver of the tractor fled away from the spot.

Learned Judicial Magistrate Ist Class, Faridabad has believed the statement of Akash-injured and Dhan Singh-complainant and held the accused-petitioner guilty. The lower appellate Court also affirmed the findings of the learned Judicial Magistrate and dismissed the appeal as such.

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

Learned counsel for the petitioner has argued that complainant-Dhan Singh was at a distance of about three acres and could not see the occurrence as it was night time. It has further been argued that it was a village road and according to Akash, the tractor had hit his motorcycle. It is contended that at the most it is a case of contributory negligence. Akash is stated to be young boy. I am of the view that the accident did not take place in the village but outside the village, opposite the Government Hospital. A rotavator was attached with the tractor, the width of which is more than tractor. Therefore, while driving the tractor with attached rotavator, the petitioner should have been more careful to see that while crossing any

incoming vehicle, sufficient space is left for the said vehicle. The fact that the leg of Akash was stuck in the right side of the rotavator goes to show that such space was not left for the incoming motorcycle. Therefore, both the Courts below have held that the accused-petitioner was driving the tractor rashly and negligently.

In view of the above, there is no ground to differ with the concurrent findings recorded by the both the Courts below. As the sentence awarded to the accused-petitioner is also on the lower side, therefore, there is no ground to show any leniency in the quantum of sentence also.

Therefore, the present revision stands dismissed.

November 7, 2017  
Suresh Kumar

(KULDIP SINGH)  
JUDGE

|                                      |                                     |
|--------------------------------------|-------------------------------------|
| <b>Whether speaking / reasoned :</b> | <div>✓</div> <b>Yes</b> / <b>No</b> |
| <b>Whether Reportable :</b>          | <b>Yes</b> / <div>✓</div> <b>No</b> |