

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

**CRR No.414 of 2017 (O&M)
Date of Decision: March 27, 2017**

Mahender Singh

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Chanderhas Yadav, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Mahender Singh against respondent State of Haryana, challenging the impugned judgment of conviction dated 23.05.2016 and order of sentence dated 25.05.2016 passed by learned Judicial Magistrate Ist Class, Jhajjar, vide which the petitioner was convicted and sentenced to undergo imprisonment for a period of three months and to pay a fine of ₹1000/- under Section 279 IPC and further to undergo imprisonment for a period of one year and to pay fine of ₹1000/- under Section 304-A IPC and in default of payment of fine, to undergo imprisonment for a period of one month and also challenging the judgment dated 13.01.2017 passed by learned Addl. Sessions Judge, Jhajjar, vide which appeal filed by petitioner was dismissed.

I have heard learned counsel for the petitioner and have gone

through the record.

The perusal of the record shows that challan was presented against accused Mahender Singh in case FIR No.16 dated 09.01.2014. The brief facts of the case as noted down in the judgment passed by learned JMIC, Jhajjar, are as under:-

“2. Shorn of unnecessary details, brief facts are that on 09.01.2014 a VT was received in P.P.City Jhajjar to the extent that an accident has taken place on Jhajjar- Sampla road. HC Pardeep Kumar along with Ct. Rattan and Ct. Manoj reached the spot of occurrence where complainant Satender got his statement recorded, wherein he made the allegation that he is working as a driver on Canter No. HR-69A-5378 from around three months. On 08.01.2014 at around 8:00 o'clock he along with another driver Jogender s/o of Prithvi Singh left from Jaipur to Yamunanagar, which was being driven by Jogender and the complainant was allegedly sitting on the conductor seat. At around 10:00 a.m. when they reached near Bittu Hotel, a truck coming from the side of Sampla being driven rashly and negligently struck them head on, as a result of which Jogender suffered serious injuries and passed away and the complainant also received injuries in the accident. He further alleged that registration no. of offending vehicle i.e. Truck is HR-63B- 9204 and the accused driver ran away from the spot of occurrence. On these allegations the instant FIR was registered under section 279,337, & 304-A of IPC.

3. During the investigation of this case HC Pardeep carried out inquest proceedings. He recorded the statements of witnesses under section 161 Cr.P.C.. The I.O went to the spot and prepared the rough site plan and arranged a photographer who took the photographs of the spot of occurrence. He took into possession the offending vehicle, besides RC and DL etc. and thereafter arrested the accused. He collected the medical reports and on completion of investigation challan was filed in this court.”

Learned JMIC, Jhajjar, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Jhajjar, vide judgment dated 13.01.2017.

Aggrieved from the above-said judgments, present revision

petition has been filed by the petitioner.

The perusal of the record shows that in the present case, PW-8 Akshay, owner of the offending truck has been examined, who specifically stated that on 09.01.2014, his vehicle caused the accident and that vehicle was being driven by Mahender Singh present petitioner. He also stated that he has taken the truck on sapurdari from the Court. No suggestion of any type has been given. Rather, there is no cross-examination to this witness, though opportunity given, which means that statement of the owner of the truck has remained un-rebutted and un-challenged on the record.

PW-9 Satender, who is the complainant and eye witness to the occurrence has been examined and deposed qua the occurrence consistently. There is no suggestion to this witness that he was not present on the spot and he has not seen the occurrence. Therefore, argument of learned counsel for the petitioner that Satender has received only minor injuries and his presence is improbable, has no merit.

Both the Courts below have considered the evidence produced on the record. There is nothing in the cross-examination of the PWs, which may make their statements unreliable. No discrepancies or improbabilities in the version of the prosecution have been pointed out. Statement of Satender, eye witness is reliable which is duly supported by the investigation of the case and the medical evidence.

The perusal of the record further shows that the findings given by the both the Courts below are correct, as per evidence and law. Nothing has been pointed out as to how the findings are perverse or against the evidence or law. 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. The concurrent findings regarding guilt and conviction of the accused given by both the Courts below are correct, as per evidence and the same are upheld.

Learned counsel for the petitioner, in the alternative, has prayed for reduction of the sentence imposed upon the petitioner.

As regarding quantum of sentence, I find that the petitioner has been sentenced to undergo imprisonment for a period of three months under Section 279 IPC and one year under Section 304-A IPC along with fine. In the facts and circumstances of the case, in no way, this sentence can be held as excessive. Adequate sentence has been passed by learned Magistrate, which is not liable to be reduced. Therefore, no ground is made out for reducing the sentence imposed upon the petitioner.

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

March 27, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No