

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

**CRR No.935 of 2017 (O&M)
Date of Decision: September 21, 2017**

Kashmir Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Harsh Goyal, Advocate
for the petitioner.

Mr.A.P.S.Gill, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Kashmir Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 01.04.2015 passed by learned Sub Divisional Judicial Magistrate, Sunam, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and six months under Section 338 IPC and to undergo rigorous imprisonment for a period of two years and to pay fine of ₹2,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of two months under Section 304-A IPC and also challenging the judgment dated 02.11.2016 passed by learned Sessions Judge, Sangrur, vide which appeal filed by petitioner was dismissed.

From the record, I find that challan was presented against petitioner in case FIR No.18 dated 25.03.2011 under Sections 304-A, 279, 337, 338 and 427 IPC. The brief facts of the case as noted down in the judgment passed by learned SDJM, Sunam, are as under:-

“The criminal justice system was set into motion on the statement of complainant Jaspal Singh aged 33 years son of Kulwant Singh R/o Ladda recorded by ASI Hardeep Singh on 25.03.2011. Complainant Jaspal Singh submitted therein as under :-

that he was an agriculturist by profession and on that day i.e. on 25.03.2011, he along with his brother in law Balwant Singh S/o Ujjagar Singh was heading on a motorcycle Pulsar black coloured bearing registration No. PB28-C-3528 towards village Dhandoli Khurd, to see their relative; that at about 9:30 AM, when they reached near Hyundai Car Agency, situated on Sangrur - Mehlan Road, another motorcycle bearing registration No. PB13-M-3802, with two persons riding thereon, was going ahead of them and while they were moving, an Indica Car bearing registration No. PB11-AT-9225, being driven by a Hindu gentleman on high speed, in rash and negligent manner, came from the side of Mehlan and hit the Hero Honda motorcycle bearing registration No. PB13-M-3802 going ahead of them, whereby, both the persons riding thereon fell down and their motorcycle was badly damaged and thereafter, the said Indica car, being driven in rash and negligent manner, hit their motorcycle, whereby, he (complainant Jaspal Singh) and his pillion rider Balwant Singh also fell down towards the left side of the road and they suffered fatal injuries and their motorcycle was also badly damaged; that the driver of the said Indica car stopped and came to him; that he disclosed his name as Kashmir Singh S/o Malkit Singh R/o Hariau Khurd District Patiala; that on seeing the gathering of the people at the spot, he made an escape; that Lal Singh S/o Sauon Singh and Gurjant Singh S/o Amar Singh were the persons, who were riding on the motorcycle going ahead of them; that the people got them admitted in the Civil Hospital at Sangrur, from where, due to seriousness of injuries, they were referred to Rajindra Medical College and Hospital, Patiala; that thereafter, he came to know that Lal Singh S/o Sauon Singh R/o Walia succumbed to the injuries and died; that the occurrence took place due to the rash and negligent driving of Kashmir Singh S/o Malkit Singh R/o Hariau Khurd.

2. After recording the above detailed statement, ruqa was sent to the police station, on the basis of which the present case FIR

was registered. Statement of the witnesses were recorded. Site plan was prepared at the spot. Postmortem examination of Lal Singh S/o Sauon Singh was got conducted. During the pendency of the investigation, Balwant Singh S/o Ujjagar Singh also succumbed to the injuries and died in Rajindra Medical College and Hospital, Patiala and his postmortem examination was got conducted. Medical record of both the injured was taken into possession by the police. Accused Kashmir Singh S/o Malkit Singh was apprehended and joined in the investigation. Both the ill fated motorcycles and offending car were taken into possession by the police. After completion of investigation and other necessary formalities, challan against the accused Kashmir Singh was presented in the Court.”

In support of its case, prosecution examined 11 witnesses.

In the statement under Section 313 Cr.P.C., the accused denied the incriminating evidence and pleaded his innocence. In defence, accused examined DW-1 Bahadaur Singh.

Learned SDJM, Sunam, 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 Sessions Judge, Sangrur, vide judgment dated 02.11.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

Records of the lower Courts were also requisitioned.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the lower Courts record.

From the record, first of all, I find that injured and eye witnesses have been examined in the present case namely PW-1 Gurjant

Singh, PW-3 Jaspal Singh and PW-10 Jagdeep Singh. All these PWs have

consistently deposed regarding the occurrence. All these witnesses have deposed in the evidence that they identify the accused. Learned counsel for the petitioner mainly argued regarding the identity of the accused.

The perusal of the record nowhere shows that statements of these PWs are contradictory or they have made material improvements. There is nothing in the cross-examination which may make their statements unreliable. Both the Courts below have relied upon the statements of these PWs.

From the evidence on record, this Court also finds that statements of above-said three witnesses are reliable and they have duly identified the accused. If the test identification parade has not been conducted, it will not be fatal to the prosecution case. As per the complainant, after hitting both the motorcycles, the driver of the car got down and came on the spot and told his name as Kashmir Singh and when the people started gathering there, then he escaped. The witnesses had sufficient time to identify the accused.

The perusal of the judgments passed by both the Courts below shows that the evidence has been appreciated by both the Courts below correctly in right perspective. No illegality has been committed by the Courts below while passing the impugned judgments and order of sentence. The concurrent findings given by both the Courts below are correct, as per law and do not require any interference from this Court.

Keeping in view the facts and circumstances of the present case, nature and gravity of the offence that the petitioner hit two motorcycles one after another and two persons have died, I do not find any

ground to reduce the sentence imposed upon the petitioner.

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

September 21, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No