

CRR-224 of 2009

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

CRR-224 of 2009

Date of Decision: 10.08.2018

Mohinder Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Abhay Gupta, Advocate, for the petitioner.
Mr. Arjun Singh Yadav, AAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Fresh vakalatnama on behalf of the petitioner filed in Court today is taken on record.

Custody certificate filed in Court today is taken on record.

Through this petition, challenge has been laid to judgment dated 14.01.2009 of the First Appellate Court, affirming the judgment of conviction dated 27.04.2007 and order of sentence dated 28.04.2007 of the trial Court, holding the petitioner guilty and sentencing him to undergo rigorous imprisonment for two years and pay fine of Rs.2000/- for offence under Section 304A IPC. In default of payment of fine, to undergo simple imprisonment for two months. To undergo rigorous imprisonment for six months and pay fine of Rs.1000/- for offence under Section 279 IPC. In default of payment of fine to undergo simple imprisonment for one month. To undergo rigorous imprisonment for six months and pay fine of Rs.500/- for offence under Section 337 IPC. In default of payment of fine to undergo simple imprisonment for 15 days.

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Learned counsel for the petitioner *inter alia* contends that PW1 and PW2 in their cross-examination deposed that speed of the three wheeler at the time of accident was 6 km per hour, which cannot be termed as a high speed. Therefore, petitioner has wrongly been convicted on the ground of his rash and negligent driving. Mode and manner of accident was also not proved. There are major contradictions in the statements of the prosecutions witnesses inasmuch as PW1 Om Parkash deposed that auto rikshaw had turned turtle on account of its rash and negligent driving by the petitioner, whereas PW6 does not speak anything about the turning turtle of the vehicle in question. PW1, being real brother of deceased Haripal, is an interested witness. PW6 says that accident had occurred around 11.00 a.m., whereas PW1 deposed that they were travelling in three-wheeler in question in between 9.00 a.m. and 10.00 a.m. In support of his contentions, learned counsel placed reliance on *State of Karnataka v. Satish*, (1998) 8 Supreme Court Cases 493, *Syad Akbar v. State of Karnataka*, (1980) 1 Supreme Court Cases 30 and *Ishwar Singh v. The State of Haryana*, 2000(2) All India Criminal Law Reporter 578 (P&H).

On the other hand, learned State counsel vehemently opposed the above submissions.

Having heard learned counsel for both the sides, I find this petition completely devoid of any merit for the reasons to follow.

Learned counsel for the petitioner has taken all the possible pleas relevant or irrelevant which can be taken in a accident case.

PW1 Om Parkash and PW6 Jeeto have deposed that apart from them, 10-12 more passengers were travelling in the offending three-wheeler driven by the petitioner at the time of accident. Perusal of copy of the

Registration Certificate, taken into possession by the police vide recovery

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memo Ex.PD, shows that three-wheeler in question was a loading carrier and not a passenger vehicle, having seating capacity of two plus load; meaning thereby that only two persons could travel in the same, including driver plus the authorised load. Therefore, it is evident on the record that three-wheeler in question was driven by the petitioner in violation of provisions of the Motor Vehicles Act. Carrying 10-12 passengers in a three-wheeler, which was meant for carrying two persons plus load, in itself speaks about rash and negligent driving of the petitioner at the time of accident on account of which, his three-wheeler turned turtle and snuffed the life of Haripal for no fault of his.

The discrepancies pointed out by learned counsel for the petitioner in the statements of PW1 and PW6 are, in fact, no controversy in the eyes of law. More-so, they relate to insignificant aspect of the case. Every individual has his own perception about distance and time etc. Therefore, there may be a variation in narrating the same.

High speed is not necessary in driving a vehicle in rash and negligent manner. Therefore, argument in this respect raised by learned counsel for the petitioner is not acceptable.

I have gone through the impugned judgments and find no illegality or perversity in the same.

In view of the discussion made above, petition is dismissed.

Learned Chief Judicial Magistrate, Panchkula, is directed to issue warrants of arrest of the petitioner to undergo remaining part of sentence.

August 10, 2018

R.S.

RAVINDER SINGH
2018.08.17 16:46
I attest to the accuracy and
authenticity of this document

Whether speaking/reasoned

Whether Reportable

(RAMENDRA JAIN)
JUDGE

Yes/No

Yes/No