

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-414-2009 (O&M)

Date of decision: 22.10.2018

Uday Pal Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Deepender Singh, Advocate for the petitioner.

Mr. Vikramjit Singh, Addl. A.G., Haryana.

RAMENDRA JAIN, J. (ORAL)

Custody certificate filed by learned State counsel is taken on record. Office to tag the same at the appropriate place.

The petitioner was booked and tried in case FIR No. 173 dated 13.08.1999 registered under Sections 279 and 304-A IPC at Police Station Chandhat, District Palwal, on the allegations that on 23.07.1999, the petitioner while driving his tractor trolley in a rash and negligent manner came from Rasulpur side and took a sudden turn, towards the side of stationary jeep bearing registration No. HR-26-F-2357. Resultantly, backside of trolley attached with his tractor, forcefully hit the head of Kishan Singh, a passenger travelling in the jeep. As a result thereof, Kishan Singh fell down on receiving multiple injuries on his head and succumbed to the same on his way to hospital.

After holding trial, the petitioner was held under Sections 279

and 304-A IPC and sentenced to undergo rigorous imprisonment for a

maximum period of one year under Section 304-A IPC by the trial Court.

Being aggrieved, the petitioner approached the Ist Appellate Court, but remained un-successful as his appeal too was dismissed vide judgment dated 13.01.2009.

Learned counsel for the petitioner *inter alia* contends that the trial Court has failed to appreciate that deceased had exposed his body outside the jeep in which he was travelling and for that reason, his body struck against the trolley attached with the tractor, being driven by the petitioner. Therefore, negligence, if any, was of the deceased himself and not of the petitioner. This fact is also supported by mechanical report Ex. PW-1/A and deposition of PW-1 Satbir Singh, Motor Mechanic. That apart, Jeep in question was never taken into possession by the police. PW-2 Om Parkash-complainant, who was the alleged eye-witness to the occurrence had categorically admitted in his cross-examination that there was no damage to the jeep. When there is no damage either to the jeep or the tractor trolley, the instant case is not of any hitting of tractor trolley to the jeep. Therefore, it is well proved that body of the deceased was exposed outside the jeep.

PW-4 Bhim Singh, had also admitted in his cross-examination that jeep in question was overcrowded having 9-10 travellers. This witness has categorically testified that the petitioner was driving tractor in a zig zag manner. Therefore, from this angle also, it is proved that body of the deceased was protruding out of the jeep and, thus, he himself was liable for his accidental death. Jeep driver, Randhir Singh, was the most important witness who could disclose the manner in which accident took place, but he was not examined by the prosecution for the reasons best known to it.

Petitioner is not named in the FIR. No identification parade was ever conducted. Statements of all the prosecution witnesses were not put to the petitioner, while recording his statement under Section 313 Cr.P.C.

On the other hand, learned State counsel vehemently opposing the submissions of learned counsel for the petitioner, pleaded the legality and validity of impugned judgements of both the Courts below.

Having given thoughtful considerations to the rival submissions of both the sides, this Court finds the instant revision completely devoid of any merit for the reasons to follow:

No question of law much less substantial has been raised in this revision.

All possible arguments which can be raised in a accident case have been raised by learned counsel for the petitioner, without leaving no stone unturned for his acquittal. However, the same have no legs to stand, in view of statements of PW-2 and P-4, namely; Om Parkash-complainant and Bhim Singh, eye-witnesses to the accident, inasmuch, as they were travelling in the jeep in question with the deceased. Their vague admission cannot be read in isolation, inasmuch, as it is well settled that statement of a witness has to be read as a whole. From the statements of both the above witnesses, the only irresistible conclusion which can be drawn, is that petitioner was solely responsible for causing the accident in question, in which a young boy aged around 23 years, has lost his life, due to rash and negligent driving of the petitioner.

There was no requirement of any identification parade, inasmuch, as the petitioner was identified by the prosecution witnesses in dock. The petitioner in his statement under Section 313 Cr.P.C. as usual

pleaded his innocence, but did not lead any evidence in his defence, to prove his innocence, what to talk of cogent and convincing.

Driver of the jeep in which the deceased was travelling was not a necessary witness, inasmuch, as quality of evidence has to be seen and not the quantity. Since, the prosecution has examined two eye-witnesses, therefore, there was no further scope to make the Court file bulky by examination of driver of the jeep.

It is well known to all that a tractor trolley is made of thick iron sheet. Therefore, it never suffers any dent or damage even in some major road mishap. Consequently, mechanical report Ex. PW-1/A showing, no damage to the trolley attached to the tractor of the petitioner is meaningless and statement of PW-1 Satbir Singh, Motor Mechanic, cannot overrule the statements of eye-witnesses.

Dismissed.

A copy of this order be sent to the Chief Judicial Magistrate, Palwal, who shall issue warrants of arrest against the petitioner to undergo remaining part of the sentence.

October 22, 2018

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No