

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-543-2009(O&M)

Date of Decision: January 17, 2018

Karan Singh

.....Petitioner(s)

versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: None for the Revision-petitioner.

Mr. Munish Sharma, AAG, Haryana.

Sudhir Mittal, J. (Oral)

Vide the order dated 01.11.2017, it was directed that learned counsel for the petitioner be notified about the next date of hearing. Office report shows that he has been notified but he is not present today also.

2. The present revision has been filed challenging the judgment and order dated 19.09.2007 passed by Chief Judicial Magistrate, Panipat convicting and sentencing the petitioner as under:-

“Rigorous imprisonment for a period of six months and a fine of Rs.500/- (Rupees five hundred only) and in default of payment of fine, accused would have to further undergo simple imprisonment for a period of one month for the commission of offence punishable under Section 279 I.P.C. and Rigorous imprisonment for a period of one year and a fine of Rs.500/- (Rupees five hundred only) and in default

of payment of fine, accused would have to further undergo simple imprisonment for a period of two months for the commission of offence punishable under Section 304-A of I.P.C.”

Vide judgment dated 07.11.2008, passed by the learned Additional Sessions Judge, Panipat, appeal of the petitioner was dismissed.

3. The case in brief, is that on 07.08.2001 a memo was received in Police Post, GRP, Panipat, that a dead body was lying near Gate No. 59 between Panipat-Naultha railway track. Thereafter, Head Constable Randhir Singh reached the spot, but the dead body had already been taken by the relatives of the deceased to the Civil Hospital, Panipat. Proceedings under Section 174 Cr.P.C. were got conducted by Head Constable-Randhir Singh. During investigation, complainant-Vijay Kumar (PW-5) got his statement recorded. On 07.08.2001, he along with his brother-in-law Suresh Kumar had gone for morning walk and when they were returning home at about 6:40 a.m. , they reached near railway crossing, Gohana Road. Suresh Kumar was going ahead of him. A tractor loaded with mud came from Naultha side and the same was being driven rashly and negligently. The complainant stopped by chance, but the tractor dashed against said Suresh Kumar resulting in his death. The tractor stopped and the complainant was able to note down its registration number. The complainant and the relatives of the deceased took Suresh Kumar to Civil Hospital, Panipat, but he was declared brought dead.

4. A preliminary report was sent to the police for registration of the case and the FIR was registered. During investigation, statements of

witnesses were recorded, site plant was prepared and post-mortem report was obtained. Report under Section 173 Cr. P.C. was presented and charge under Sections 279 & 304-A I.P.C was framed against the petitioner to which, he pleaded not guilty. During trial, prosecution examined nine witnesses. In his statement under Section 313 Cr.P.C., accused/petitioner denied the prosecution case and pleaded his false implication, but, did not lead any evidence in his defence.

5. After considering the evidence on record, the learned trial Court convicted the petitioner as mentioned hereinabove. The defence of the petitioner that he was not present at the spot has been disbelieved on the ground that the owner of the tractor admitted that his tractor had been involved in the accident and that the petitioner is his driver. The defence counsel did not cross examine the owner on the point of his presence at the time of accident or that the tractor was being driven by someone else.

6. Today, none is present on behalf of the Revision-petitioner. I have gone through the record with the assistance of the learned State counsel and on the basis of evidence on record, I do not find any error in the judgments of the Courts below, requiring interference by the revisional Court. The death due to accident is proved by the testimony of PW-9, who conducted the post mortem examination on the dead body of the deceased through his report (Ex. PW9/A) and the factum of rash and negligent driving of the petitioner has been proved by the complainant while appearing as PW5. The learned appellant Court rightly dismissed the appeal of the petitioner vide judgment dated 07.11.2008 inasmuch as there is no infirmity or illegality therein.

7. Accordingly, the revision petition being devoid of any merit, is dismissed.

January 17, 2018
sonia arora

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No