

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 2122 of 2012 (O&M)
Date of decision : 1.3.2018

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Gyan Chand @ Gyan

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Surinder Dagar, Advocate
for the petitioner.

Mr.Sulinder Kumar, Assistant Advocate General,
Haryana.

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H. S. Madaan, J.

This revision petition has been filed against the judgment dated dated 11.7.2012 passed by the Additional Sessions Judge, Gurgaon vide which the said Court had dismissed the appeal preferred against the judgment of conviction and order of sentence dated 26.7.2011, passed by the Court of Judicial Magistrate Ist Class, Gurgaon, convicting the petitioner and sentencing him as under:-

<i>Name of convict</i>	<i>U/s</i>	<i>Rigorous imprisonment</i>	<i>Fine</i>	<i>In default of payment of fine, simple imprisonment for</i>
Gyan Chand @ Gyan	279 IPC	Six months	Rs.1,000/-	six months

<i>Name of convict</i>	<i>U/s</i>	<i>Rigorous imprisonment</i>	<i>Fine</i>	<i>In default of payment of fine, simple imprisonment for</i>
	304-A IPC	2 years	Rs.1,000/-	six months

Both the sentences were ordered to run concurrently.

Briefly stated facts of the case, as per prosecution story are that on 26.8.2004 on receipt of a message at Police Station DLF, Gurgaon, that a road side accident had taken place between a TATA 407 vehicle and a Zen car in which driver of Zen car had expired, a Police Party from the said Police Station headed by ASI Kishan Singh reached at the spot, where it came across complainant Mukesh Kumar a resident of House No. G-20, Green Wood City, South City-1, Gurgaon, who got his statement recorded with the police, wherein he stated that on that day, he alongwith Sanjay, resident of Sector-15, Gurgaon, was coming from Pali Zone Crusher to Gurgaon in their Maruti car bearing registration no. HR-06D-4783. Jagjit Singh driving his Maruti Zen car bearing registration No. HR38A-1488 was going ahead of them. At about 7.00-7.15 AM, when they had crossed Bandwari turn, a canter bearing No. HR-38F-0417, being driven rashly and negligently by its driver, whose name later on came to be as Gyan, came from Gurgaon side and directly hit the car of Jagjit Singh, who suffered injuries and died on the spot. The dead body of Jagjit Singh was extracted out of the car and sent to the hospital. On the basis of statement of complainant Mukesh Kumar, ruqa was sent to the police station, which formed basis for registration of the FIR .

Thereafter the case was investigated. The accused was formally arrested in this case and released on bail.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan, copies of documents relied upon therein were supplied to the accused free of cost, as provided under Section 207 Cr.P.C. Then finding that charge for offences under Section 279, 304-A IPC was disclosed against the accused, he was charge sheeted accordingly, to which he pleaded not guilty and claimed trial.

During the course of prosecution evidence, the prosecution examined in as many as seven witnesses i.e. PW-1 Chand Singh SI (retired), who had filed challan against the accused in the Court; PW-2 Mohan Lal, photographer who had clicked the photographs of the place of accident, proving the photographs as Exhibits P1 to P5 and negatives Exhibits P6 to P10; PW3 SI Prem Chand, who had registered the formal FIR on receipt of Ruqa proving the FIR as Exhibit PW3/A and endorsement as Exhibit PW3/B; PW4 Dr. Subhash Sharma, who had conducted the post mortem examination on the dead body of the deceased, proved his report as Exhibit PW4/B; PW5 Pradeep Kumar, a brother of deceased Jagjit Singh, who had participated in the inquest proceedings and identified the dead body of his brother Jagjit Singh, making his statement Exhibit PW5/A deposed in that regard; PW6 Mukesh Kumar provided eye witness account of the accident deposing in consonance with the prosecution story and PW7 Atul Sharma had got the

offending vehicle bearing bearing registration No. HR38F-0417 on superdari on 27.8.2004; but since he stated that he could not tell who was driving the vehicle, he was got declared as a hostile witness by the Public Prosecutor, who was allowed to cross examine him. Thereafter the prosecution evidence was closed by court order on 7.7.2011.

Statement of accused was recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the accused were put to him, but he denied the allegations, stating that he has been falsely implicated in this case. However, the accused did not lead any evidence in defence, despite availing of several opportunities .

After hearing arguments the trial court convicted the accused for offences under sections 279 and 304-A IPC and sentenced him as mentioned above, which left him aggrieved. He had preferred an appeal before the Court of Sessions, however learned Additional Sessions Judge, Gurgaon, vide judgment dated 11.7.2012 dismissed the same. Therefore the accused convict has approached this Court by way of filing the present revision petition, notice of which was given to the State, which is opposing that.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

The judgments passed by the Courts below are well reasoned, based upon proper appraisal and appreciation of evidence and correct interpretation of law. The prosecution by examining the complainant Mukesh Kumar as PW 6 has successfully established

that accused had caused the accident by rash and negligent driving of the offending canter No.HR38F-0417. He deposed in a natural and convincing manner, standing his cross examination well. His presence at the spot at the relevant time comes out to be natural and probable and the account given by him is worthy of reliance. No reason has been suggested or proved, prompted by which he might have deposed falsely or involved the accused wrongly in this case.

The medical evidence provided by PW4 Dr.Subhash Sharma, who had conducted post mortem examination on the dead body of the deceased, duly corroborates the ocular evidence. The investigation in this case has been conducted in a fair and impartial manner. The Investigating Officer had no reason to challan the accused wrongly. The remaining evidence on the record fully supports the prosecution story. The necessary ingredients of offence under Sections 279 and 304-A IPC stood proved and the trial Court was justified in convicting the accused for offence under Sections 279 and 304-A IPC. Similarly the Additional Sessions Judge, Gurgaon, was well within his rights to dismiss the appeal, finding no merit therein.

The revisional jurisdiction of this Court is quite limited. It is to interfere only when there is a glaring infirmity or illegality apparent on the face of judgment passed by the Courts below or for that matter if the judgment is perverse or contrary to the settled principles of criminal law. The impugned judgments are certainly not of that type. The Courts below were justified in convicting the accused for offences under Sections 279 and 304-A IPC. As regards

the sentence part I do not find any reason to reduce the same, keeping in view that roads nowadays are turning into killing grounds and there is high rate of mortality in this region on account of road mishaps. Therefore such culprits are to be dealt with an iron hand. There is no scope for reduction of sentence in this case. Finding no merit the revision petition is dismissed.

1.3.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No