

CRR-2175 of 2012 (O&M)

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

CRR-2175 of 2012 (O&M)
Date of Decision: 05.12.2018

Dalbir

...Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. R.S. Tacoria, Advocate, for the petitioner.
Mr. P.K. Garg, AAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Custody certificate filed in Court today is taken on record.

Accused has laid challenge to judgment dated 20.04.2012 of the First Appellate Court, affirming the judgment dated 05.06.2010 of the trial Court holding him guilty under Section 279 and 304-A IPC and order of sentence dated 12.06.2010, sentencing him to undergo simple imprisonment for six months and pay fine of ₹500/- under Section 279 IPC; in default thereof to undergo simple imprisonment for 15 days and undergo further imprisonment for two years and pay fine of ₹1500/- under Section 304-A IPC; in default thereof to undergo simple imprisonment for two months.

Briefly, petitioner was booked and tried in case FIR No.180 dated 02.06.2002 registered under Sections 279 and 304-A IPC at Police Station Model Town, Panipat, on the allegations that on 02.06.2002, petitioner while driving his car bearing registration No.PB-11H-5328 in a

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rash and negligent manner hit motorcycle of the complainant being driven by deceased Om Parkash near Wardhman Rice Mill in the area of Police Station Model Town, Panipat. As a result thereof, Om Parkash succumbed to his injuries.

After holding trial, petitioner was held guilty and sentenced in the manner as narrated above.

Being aggrieved, petitioner approached the First Appellate Court, but remained unsuccessful as his appeal too was dismissed vide impugned judgment dated 20.04.2012.

Learned counsel for the petitioner *inter alia* contends that petitioner was not apprehended at the spot. Therefore, both the Courts below failed to appreciate that the prosecution had miserably failed to establish the identity of the petitioner for causing impugned accident. Neither the offending car belonged to the petitioner nor was he driving the same. Complainant did not receive even single injury, though as per prosecution version, he was a pillion rider on the motorcycle being driven by deceased Om Parkash. This fact, in itself, is sufficient to prove that he was a procured witness. Link evidence was missing, because no mechanical report was produced.

On the other hand, learned State counsel, pleading the legality and validity of the impugned judgments of both the Courts below, vehemently opposed the contentions raised by learned counsel for the petitioner

Having given thoughtful consideration to the submissions made by learned counsel for both the sides, this Court finds the instant revision

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completely devoid of any merit for the reasons to follow.

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

In revision, this Court has very limited power, which can only be exercised, (i) when the Courts below have acted beyond the jurisdiction vested in them (ii) have not exercised the same diligently and (iii) have exercised illegally.

After going through the judgments of both the Courts below, this Court does not find any such infirmity, inasmuch as, they are well-reasoned being based on appreciation of evidence. Therefore, the same are not required to be interfered with. Petitioner has not brought any circumstance or led any evidence qua ill-motive of the complainant to falsely implicate him or that he had any axe to grind against him.

Discrepancies pointed out by learned counsel for the petitioner have already been dealt with in detail by both the Courts below. Therefore, further dealing with the same would be a repetition.

Complainant identified the petitioner in Court. Therefore, it cannot be said that identity of the petitioner was disputed. Argument of learned counsel for the petitioner that complainant was a procured witness, relates to the insignificant aspect of the case inasmuch as it is not necessary that in accident case, every occupant of a vehicle or a pillion rider would receive injuries. In case, complainant did not sustain any injury, it does not affect the merits of the case, inasmuch as prosecution was able to prove its case beyond any shadow of reasonable doubt against the petitioner.

Complainant as PW2 categorically deposed about the manner

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of accident and causing of the same by the petitioner, but he was not cross-examined by the petitioner, which requires to draw adverse inference against the petitioner that he did not adopt any such exercise intentionally and deliberately, knowing well that he was guilty in causing the impugned accident and thus, would not be able to extract anything from the mouth of the complainant in his favour.

Mechanical report was not required to be produced inasmuch as complainant narrated the manner in which accident took place.

Dismissed.

Copy of this order be sent to learned Chief Judicial Magistrate, Panipat, for issuance of arrest warrants of the petitioner to undergo remaining part of sentence.

December 05, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

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