

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

CRR No.231 of 2012 (O&M)
Date of decision: 17th April, 2018

Ranbir

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sarabjit S. Hira, Advocate for the petitioner.
Mr. P.K. Jangra, Addl. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

This criminal revision is an outcome of initial findings of conviction by the Court of learned Chief Judicial Magistrate, Rohtak through judgment and order of sentence dated 03.08.2010 whereby petitioner was found guilty under Sections 279/337/338/304-A IPC and sentenced to undergo simple imprisonment for a period of six months under Section 279 IPC, similar sentence of six months simple imprisonment under Sections 337 and 338 IPC each and simple imprisonment for a period of one year under Section 304-A IPC in respect of case bearing FIR No.46 dated 07.03.2003 under Sections 279/337/338/304-A IPC pertaining to Police Station Sampla and consequent upon his appeal having been dismissed by the Court of learned Sessions Judge, Rohtak through impugned judgment dated 09.01.2012.

Heard Mr. Sarabjit Singh Hira, Advocate for the petitioner; Mr.P.K. Jangra, Addl. Advocate General, Haryana representing the respondent/State and perused the records of the case.

The revisionist convict Ranbir is a driver of truck bearing registration No.HR-47-5600 (for short, 'the offending vehicle') and on the fateful day i.e. 06.03.2003 while driving the offending vehicle in a rash and negligent manner had hit the ill fated jeep bearing registration No.HR-46A-9873 around 10/10.30 p.m. in the area of village Bhaisru Khurd which was ferrying a marriage party resulting in death of eight persons and injuries to several, leading to registration of the present case.

Upon completion of investigations and presentation of challan, prosecution to prove its case examined complainant Balwan as PW1 who detailed the manner of accident attributing rash and negligent driving to the accused, followed by the testimony of PW2 Om Parkash eye witness of the accident, PW3 Umed Singh injured/eye witness, PW4, Wazir, PW5 Joginder, PW6 SI Mahender Singh who proved FIR Ex.PW6/A and endorsement made thereon Ex.PW6/B. Prosecution to prove deaths and injuries examined PW7 Dr. Ranvir Singh who tendered his affidavit Ex.PW7/A to Ex.PW7/D and proved post-mortem reports of some of the deceased as Ex.PW7/E to Ex.PW7/H. ASI Jai Bhagwan PW8 recovered the ill-fated jeep through recovery memo Ex.PW8/A. Thereafter the driver of the ill-fated jeep Sunil Kumar testified as PW9 and then SI Sri Krishan the investigating officer of the case PW10 detailed his investigations proving documents Ex.P1, Ex.PW10/A,

Ex.PW6/B, ruqqa Ex.PW10/B, Ex.PW10/C, post-mortem reports Ex.PW10/E, Ex.PW10/F, Ex.PW10/H, Ex.PW10/K, Ex.PW10/M, Ex.PW10/O, Ex.PW10/Q, Ex.PW10/S, inquest reports Ex.PW10/D, Ex.PW10/G, Ex.PW10/J, Ex.PW10/L, Ex.PW10/N, Ex.PW10/P, Ex.PW10/R, Ex.PW10/T, site plan Ex.PW10/U, Ex.PW10/V to Ex.PW10/Z, further proving documents Ex.PW10/AA, Ex.PW10/BB, Ex.PW10/DD to Ex.PW10/HH, Ex.PW10/JJ proving recovery of RC of the truck and license of the driver Ex.PW10/CC and taking into police possession the vehicles involved in the accident as Ex.PW8/A. Dr.Giriraj PW11 proved through his affidavit Ex.PW11/A the post mortem reports Ex.PW11/B to Ex.PW11/E. PW12 EHC Ashok Kumar tendered his affidavit PW12/A and thereafter through Kharaiti Lal PW13 Sapurdar of the offending vehicle, proved taking into police possession of the driving license of the driver, RC and insurance policy of the vehicle through memo Ex.PW10/C, proving copy of the RC as Ex.PW13/A, Sapurdaginama Ex.PW13/B and Sapurdari Order as Ex.PW13/C. PW14 Sadhu Ram proved taking of Sapurdari of the ill-fated jeep. Thereafter prosecution evidence was closed.

The entire evidence, oral as well as documentary, was put to the accused who in his statement under Section 313 Cr.P.C. denied the same but did not lead any evidence in his defence, leading to passing of the impugned judgment.

Learned counsel for the petitioner Mr. Sarabjit Singh Hira, Advocate at the onset, has tried to argue on the misinterpretation of the

evidence by the courts below holding that the identity of the revisionist has never been established on the records and which has been controverted by learned State counsel Mr.P.K. Jangra, Addl. Advocate General, Haryana.

Appreciating the submissions, to the very query of the Court, learned counsel for the petitioner was at a loss of words if such a stand has ever been taken up by the accused during the trial or in his statement under Section 313 Cr.P.C. Admittedly the driving license of the driver, RC of the offending vehicle and its Sapurdari have been well established by the prosecution and not even a suggestion has been put to any of the eye-witnesses to put to doubt the very identity of the driver of the offending vehicle and therefore, such an argument pales into insignificance.

The second leg of submissions raked up by the learned counsel for the revisionist is that it was a case of contributory negligence and has sought to harbor his submissions on the site plan Ex.PW10/U to hold out that it was in the middle of the road the accident has taken place and which argument has been refuted with much vehemence by learned State counsel on the grounds that the truck driver has mowed down the ill fated jeep and there are categorical allegations of rash and negligent driving at a high speed.

Going through these submissions, a criminal case was lodged where the accident, as per Ex.PW10/U the site plan, has taken place almost a little on the left side of the centre of the road, does not mean or

can be construed that it was a case of contributory negligence. Neither it is a case of the driver of the truck, the present petitioner, during cross-examination of the PWs that it was a case of contributory negligence, nor even he has taken up any such plea in his statement under Section 313 Cr.P.C. and rather what plea has been put forth is that no such accident ever took place and that he has been falsely implicated, and such a stand rather undermines the case of the defence in entirety. The injured eye-witnesses have been examined who have fully supported the prosecution story and therefore their presence at the time of the accident cannot be put to doubt. Testimonies of complainant Balwan PW1 and the eye-witness and driver of the jeep PW9 Sunil Kumar leave no scope to doubt the credentials of the prosecution story. Even the deposition of PW5 Joginder, injured eye-witness, whose injuries have been proved by PW7 Dr. Ranvir Singh and PW11 Dr. Giriraj, undoubtedly leads to the only and only inference that an accident of such a magnitude has taken place where eight persons have lost their lives and several of them have been maimed. Though it is sought to be put forth that PW3 Umed Singh, one of the eye-witnesses, has not fully supported the prosecution story and that there were material contradictions in the testimony of PW10 Sri Krishan the investigating officer, with those of the other PWs, are matters of inconsequential significance, as with the passage of time memory of the witnesses is likely to fade together with the fact that at the time of accident one cannot be expected to picturize each and every detail of the manner of the accident. It is categorical stand of the defence that the

accident has been caused due to the rash and negligent driving of the ill-fated jeep driver who was under the influence of liquor, however to the contentions of learned State counsel, learned counsel for the petitioner could not show cause what evidence by the defence has been led to this effect. More so, in his statement under Section 313 Cr.P.C. when confronted the learned counsel for the petitioner could not show how such a stand has come forth in the statement of the accused to clear the air against him. The learned trial Court has given a well detailed reasoning followed by much more consideration of the evidence and arguments of the two sides in the impugned judgment of the learned Sessions Judge.

As a last resort, learned counsel for the petitioner has sought to hammer home the point that out of the awarded maximum sentence of simple imprisonment for one year, the petitioner has already undergone 4 months and 4 days and therefore prays for showing leniency as to the quantum of sentence on the grounds of family hardship and which has been opposed by learned State counsel.

Keeping in view the manner of accident in which eight precious lives have been lost and a large number of persons have been grievously injured and having regard to the ever increasing rate of road-side accidents, does not call for showing any leniency. Rather the trial Court had been soft paddling as to the quantum of sentence so awarded to the petitioner in view of the magnitude of the casualties by such a rash

and negligent act of driving of the offending vehicle and therefore does not calls for any leniency.

Learned counsel representing the revisionist could not impress upon this Court how there has been miscarriage of justice, wrong interpretation of evidence, illegality or perversity in the findings of the courts below which are concurrent in their approach. Certainly no fault can be found out in the impugned findings and the same needs to be upheld. The present revision petition being hopelessly without any merit, stands dismissed. Records be sent back.

(FATEH DEEP SINGH)
JUDGE

April 17, 2018
rps

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