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

**CRR No.628 of 2012 (O&M)
Date of decision: 01.10.2018**

Sucha Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. C.M. Munjal, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

RAJ SHEKHAR ATTRI, J.

The revisionist has assailed the judgment of conviction and order of sentence dated 09.07.2010 passed by the learned Judicial Magistrate Ist Class, Malout vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year under Section 304-A of the Indian Penal Code (in short 'the Code'). Thereafter, he preferred an appeal which was dismissed by the learned Additional Sessions Judge, Sri Muktsar Sahib on 14.02.2012.

Briefly stated, case of prosecution is that on 10.01.2003, Manpreet Kaur (hereinafter to be referred to as 'the deceased') was going in a bus bearing No.PB12-A-9812. While she was boarding the bus at the bus stand of her village, the conductor hurriedly blew the whistle and the driver put the bus into motion. Due to which, Manpreet Kaur had suffered a jerk

and resultantly fell down from the bus. Unfortunately, the tyre of the bus crushed her. On seeing this, the driver Sucha Singh and conductor Sukhdev Singh fled away from the spot. She was taken to a hospital where she died on the same day at 07:15 pm. It is a case of prosecution that there was the negligence on the part of both the driver-Sucha Singh (petitioner) and conductor-Sukhdev Singh.

The FIR was registered on the statement of Jaswinder Singh. After completion of the trial, the learned magistrate convicted and sentenced both of them for the offence under Section 304-A of the Code. Appeals preferred by them have also been dismissed.

In this case, co-convict-Sukhdev Singh-conductor of the bus preferred a separate revision petition bearing No.CRR-647-2012 titled as *Sukhdev Singh Vs. State of Punjab*, but during the interregnum, he had died on 16.12.2017, therefore, proceedings against him had been abated.

Learned counsel for the petitioner has submitted that there was no fault of the petitioner, the deceased had tried to board the bus when the bus was in moving condition. It has also been argued that the driver-petitioner was driving the bus in a proper manner and conductor was issuing tickets to the passengers and none of them had noticed if the deceased had opened the door to board the bus.

To substantiate this plea, reliance has been placed upon the judgment of *Mohd. Aynuddin @ Miyam Vs. State of Andhra Pradesh, 2000(3) RCR (Criminal) SC 619*.

I have heard learned counsel for the parties and gone through the record.

Cogent evidence has been adduced to establish the said fact that petitioner-Sucha Singh was a driver of the vehicle. PW-6 Surjit Singh placed on record the duty roster which proved that Bus No.PB12-A-9812 was entrusted to driver Sucha Singh on the ill-fated day and Sukhdev Singh was deployed as a conductor thereon. So far as, identification of the petitioner is concerned, there is ample evidence to prove the same. PW2 Jaswinder Singh (wrongly numbered as PW-1), PW8 Sukhpal Singh and PW-9 Parminder Pal have specifically proved that the petitioner was driving the ill fated bus.

In the defence evidence, accused examined DW2 Gurdarshan Singh, who admitted that Sucha Singh was driving the bus and Sukhdev Singh was the bus conductor. Similar was the statement of DW3 Kashmir Singh. Thus, it is fully proved that petitioner Sucha Singh was driving the ill fated bus on the day of accident.

Now coming to the question of the rash and negligent driving by the petitioner. There is ample evidence that the deceased was still in the process of boarding the bus and driver put the bus into motion due to which deceased fell down. It was paramount duty of the driver to ensure that the passengers have boarded the bus. It was also his duty to ensure that the doors of the bus have been closed prior to starting of bus. His act was neither in good faith nor he acted as a prudent man.

On the analysis of evidence, this court is of the opinion that impugned orders are based upon proper appreciation of the evidence and do not call for any interference. As such, this petition is dismissed.

The sentence imposed by the learned magistrate stands maintained. The petitioner be taken in custody and sent to jail to undergo the remainder period of sentence.

Copy of the order be sent to the learned Chief Judicial Magistrate, Muktsar for compliance.

(RAJ SHEKHAR ATTRI)
JUDGE

01.10.2018
m. sharma

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