

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**1. CRR No. 2071 of 2015
Date of Decision: 23.10.2018**

Karambir @ Lilu

...Petitioner

VERSUS

State of Haryana and another

...Respondents

2. CRR No. 2074 of 2015

Manish Sahai

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rose Gupta, Advocate
for the petitioners in both the petitions.

Ms. Dimple Jain, AAG, Haryana.

SURINDER GUPTA, J.

As per case of prosecution, a Canter bearing registration no. HR-39B-6270 hit a Container bearing registration no. HR-55F-7390 (later referred to as 'the offending vehicle') from behind resulting in death of four persons. The deceased alongwith some others were going to Bathinda for catering as per directions of owner of Ram Chat Bhandar. The offending vehicle had been parked on the road with its face towards Hisar and Jindal factory. At about 07.00 p.m., when the Canter after loading required material came to the spot, it could not pass because of paucity of space and hit the offending vehicle, resulting in death of Navjivan, Rakesh, Davender and Omveer and injuries to other occupants of the Canter. Complainant-Gulam Mohammad in his statement stated that earlier also complaint was

given against parking of the containers on the road and despite this the offending vehicle was deliberately parked on the road. The driver as well as owner and others, who parked the offending vehicle on the road, are liable for the accident and death of four persons.

2. The police after completion of investigation presented challan for offence punishable under Section 304 of Indian Penal Code (for short 'IPC') and after hearing arguments on charge, petitioners were ordered to be charge-sheeted for offences punishable under Sections 283/120-B, 304/120-B, 337/120-B, 338/120-B and 427 IPC.

3. The arguments of learned counsel for the petitioners are twofold. Firstly, the offence under Section 304 IPC is not attracted in this case as it is a case of accident, where driver of the offending vehicle had wrongly parked it on the road. At the most, it could be termed as rash and negligent act on his part; and secondly, petitioner-Manish Sahai (in CRR-2074-2015), who is manager of the transport company of the offending vehicle, is not liable for parking of the vehicle on the road.

4. Final report submitted by the police state that on investigation, it was found that driver of the offending vehicle after parking the same on the road had intimated his bosses, namely, Rajesh Mishra and Munish Bihari but they had refused permission to remove the offending vehicle from the road.

5. Learned State counsel has argued that at the time of framing of charges only *prima facie* case against accused is to be seen. From the evidence on record, it is apparent that the offending vehicle was parked on the road with knowledge and consent of petitioner-Manish Sahai. It is not a case of rashness and negligence but a deliberate act, which resulted in

accident and death of four persons and injuries to several others.

6. Section 304 IPC provides punishment for culpable homicide not amounting to murder. Allegation against petitioners is that their action of parking the offending vehicle on the road was more than the rash and negligent act on the part of its driver and Manish Sahai being manager of the transport company. After being informed of parking the offending vehicle on the road, petitioner-Manish Sahai took no action to ensure that the vehicle is not parked in a dangerous manner on the road, rather turned down the request of driver to remove the container from the spot. The offending vehicle was parked in no parking zone resulting in Canter coming from behind hitting it and death of four persons.

7. Learned trial Court has looked into the submissions as raised by learned counsel for petitioners and has rightly observed that offences under Section 304/120-B and other sections of IPC are made out against petitioners. At this stage, I find no reason to interfere with the order passed by learned trial Court.

8. These revisions petitions have no merit and are dismissed.

9. It is, however, made clear that observations in this order are only for the purpose of deciding present revisions and nothing contained therein shall be taken as expression of opinion of this Court on merit.

October 23, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No