

CRR-2282 of 2015

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

CRR-2282 of 2015

Date of Decision: 28.08.2018

Sukhdev

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Abhimanyu Kalsy, Advocate,
for Mr. Rakesh Dhiman, Advocate, for the petitioner.
Mr. Vikramjit Singh, Addl. A.G., Haryana.

RAMENDRA JAIN, J. (ORAL)

Custody certificate filed in Court today is taken on record.

Through this revision, petitioner has laid challenge to judgment dated 29.05.2015 of the First Appellate Court, affirming the judgment of conviction and order of sentence dated 03.12.2014 of the trial Court, holding him guilty and sentencing to undergo imprisonment for six months and pay fine of Rs.1000/- for commission of offence under Section 279 IPC. In default of payment of fine to undergo simple imprisonment for 15 days. To undergo imprisonment for one year for commission of offence under Section 304-A IPC.

Briefly, in the day time of 14.08.2009, petitioner, while driving vehicle bearing registration No.HR-55B-8913 in a rash and negligent manner struck against the motorcycle of deceased Brij Mohan from behind in the area of hotel/restaurant 32 Milestone, Gurgaon. As a result thereof, Brij Mohan fell down receiving multiple grievous injuries on his person and

succumbed to his injuries on the same day during treatment. On these broad allegations, petitioner was booked in case FIR No.364 dated 14.08.2009

CRR-2282 of 2015

under Section 279 and 304-A IPC registered at Police Station Civil Lines, Gurgaon, tried and convicted in the manner as narrated above in the opening part of the judgment by the trial Court.

Being aggrieved, petitioner approached First Appellate Court, but remained unsuccessful, as his appeal too was dismissed vide impugned judgment dated 29.05.2015.

Learned counsel for the petitioner *inter alia* contends that both the Courts below failed to appreciate that the petitioner was not apprehended at the spot. Therefore, his identity is disputed as no identification parade was conducted. PW2 alleged eyewitness to the occurrence is a procured witness. Therefore, both the Courts below ought not to have relied upon his testimony. Identity of the vehicle allegedly driven by the petitioner on the date of accident was also doubtful as vehicle bearing registration No.HR-55B-8913 is not Tata-407 described in the FIR, rather is Eicher vehicle, as per Registration Certificate Ex.PW5/A. Police, during investigation, has taken into custody vehicle No. HR-55B-8913 as offending vehicle, but vehicle No.HR-55-A-8913 was got released on sapurdari. Petitioner has already faced a protracted trial for six years. Therefore, lenient view may kindly be taken.

On the other hand, learned State counsel vehemently opposed the above submissions made by learned counsel for the petitioner.

Having given thoughtful consideration to the submissions made by both the sides, this Court finds that the instant revision is completely devoid of any merit for the reasons to follow.

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

CRR-2282 of 2015

the petitioner guilty and recording his conviction.

Arguments advanced by learned counsel for the petitioner have already been raised and dealt with in detail by both the Courts below. Therefore, dealing with the same would amount to sheer wastage of time of the Court.

Every individual has his own perception about date, time and description of a particular object. Vehicle Tata-407 and Eicher, both are light motor vehicles. Therefore, it is possible that the complainant under wrong impression might have recorded the description of the offending vehicle as Tata-407, but the fact remains that offending vehicle, which was found involved is bearing registration No. HR-55B-8913.

Presence of PW2 Parminder Singh, being brother-in-law of the deceased at the spot, is not doubtful at the time of accident inasmuch as he had shifted the deceased to the hospital. He was cross-examined at length by learned defence counsel, but nothing favourable to the petitioner could be elicited from his mouth.

Identity of the petitioner was proved for causing accident in question without any shadow of doubt by eyewitness PW2 Parminder Singh as he identified the petitioner in Court during trial as the offending driver. No oblique motive or ill-will has been attributed by the petitioner against PW2 Parminder Singh to falsely implicate him. Therefore, there was no reason for PW2 Parminder Singh to grind any axe against him.

Non-conducting of identification parade by the police does not render the testimony of PW2 Parminder Singh, coupled with the statements of other prosecution witnesses, inadmissible in evidence, inasmuch as identity of the petitioner, as discussed above, was established in causing the impugned accident by him, resulting into death of Brij Mohan.

CRR-2282 of 2015

Om Parkash, owner of the offending vehicle, had himself produced the vehicle and the petitioner under his employment as driver, before the police. Therefore, identity of the vehicle and the petitioner is established from this angle also.

I have gone through the impugned judgments and find no illegality or perversity in the same.

In view of the discussion made above, petition is dismissed.

Learned Chief Judicial Magistrate, Gurugram, is directed to issue arrest warrants of the petitioner to undergo remaining part of the sentence.

August 28, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

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