

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1638-2016
DATE OF DECISION:-04.12.2018

RAJ SINGH...PETITIONER...

V.

STATE OF PUNJAB...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Jagraj Singh Khiva, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Custody certificate furnished by learned State counsel is taken on record. Be tagged at appropriate place.

Through this revision, accused has laid challenge to the judgment of first appellate court dated 29.01.2016, affirming the judgment of conviction and order of sentence of trial court dated 25.03.2015, whereby, the petitioner was held guilty, convicted and sentenced as under:-

<i>Sr. No.</i>	<i>Charges</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of payment of fine</i>
1	304-A IPC	to undergo RI for 18 months	Rs.6000/-	In default, to further undergo RI for 15 days
2.	279 IPC	to undergo RI for 6 months	Rs.1000/-	In default, to further undergo RI for 15 days
3.	337 IPC	to undergo RI for 3 months		

All the sentences were ordered to run concurrently.

Briefly, petitioner, after holding trial in case FIR No.17 dated 15.03.2011, registered under Sections 304-A, 279, 337 IPC at Police Station Kot Dharmu, District Mansa, was convicted and sentenced in the manner as narrated above vide aforesaid judgment and order dated 25.03.2015, on the allegations that in the evening of 15.03.2011, petitioner, while driving his tractor trailer bearing HR-55A-2946, in a rash and negligent manner caused death of Harpreet Kaur @ Baljinder Kaur wife of Jagdish Singh, a pillion rider on a motorcycle bearing No.PB-31H-2373, being driven by her brother-in-law Harbhajan Singh.

Being aggrieved, petitioner approached first appellate court, but remained unsuccessful, as his appeal too, was dismissed vide judgment dated 29.01.2016.

Learned counsel for the petitioner contends that petitioner was not apprehended at the spot. No identification parade was ever got conducted. Both the courts below have failed to appreciate that identity of the petitioner was not established, for causing the impugned accident by striking his truck trailer to motorcycle and the pillion rider. The prosecution story that offending tractor trailer allegedly driven by petitioner struck against the motorcycle from behind, is falsified from the mechanical report Ex.PW6-B, because no damage was found to the motorcycle from backside. Rather, it was found to have suffered damages on its front side. Medical evidence also does not support the prosecution story, because out of two doctors, who conducted the post-mortem, only

one was examined. The cause of death was due to shock and

haemorrhage. It was not on account of alleged accident caused by the petitioner. The complaint Ex.PA was anti dated, because the date i.e. 16.03.2011 was converted into 15.03.2011 by overwriting.

On the other hand, learned State counsel refuting the above submissions of learned counsel for the petitioner, pleaded the legality and validity of judgments of both the courts below.

Having given anxious consideration to the rival submissions, this Court finds the instant petition completely devoid of any merit for the reasons to follow.

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

2. This Court has a very limited jurisdiction to exercise in revision, inasmuch as, the same can only be exercised; (i) if the courts below have exceeded their jurisdiction; (ii) have exercised their jurisdiction illegally and; (iii) have not exercised their jurisdiction diligently. No such circumstances could be pointed out by learned counsel for the petitioner before this Court.

3. All the pleas raised by learned counsel for the petitioner have already been dealt with by both the courts below in detail. Therefore, their further dealing with the same, would amount to the repetition.

4. The FIR was lodged very promptly, therefore, no plea of false implication can be accepted, more particularly when the petitioner

has not led any evidence that complainant had any ill will, motive or axe to grind against him.

5. The cutting in the date of complaint Ex.PA is only typographical mistake. Learned counsel for the petitioner has miserably failed to show as to what prejudice is being caused to the petitioner on account of the same.

6. As far as identity of the petitioner is concerned, the petitioner had stopped for a while at the spot before fleeing away. The complainant, in the witness-box, specifically narrated that he had come to know about whereabouts of petitioner from people, who had gathered at the spot. That apart, petitioner was identified by the complainant in the dock. Therefore, no doubt remains about the identity of the petitioner in causing the impugned accident.

7. Quality of evidence has to be seen and not quantity. There were no requirement of examination of both the doctors, who had conducted post-mortem of the deceased. Examination of one doctor was more than sufficient.

The post-mortem report that the deceased had died on account of shock and haemorrhage, is itself sufficient to prove that she had died on account of injuries suffered by her in the accident.

8. The impact of the striking of the tractor trailer by the petitioner on the backside of the motorcycle was so intensive that the complainant was thrown from it and deceased had fallen on the right side

of the same. Therefore, it is quite evident that motorcycle had suffered damages in its front portion on account of its hitting on the road or some object there. Despite lengthy cross-examination, nothing favourable could be elicited from the mouth of the complainant by his learned defence counsel.

I have gone through judgments of both the courts below, they are well reasoned, being based on appreciation of facts and thus, do not require any interference by this court.

Dismissed.

Copy of this order be sent to Id. Chief Judicial Magistrate/Duty Magistrate, Mansa for issuance of arrest warrants of the petitioner to undergo remaining sentence of imprisonment awarded by the trial court vide judgment dated 25.03.2015.

04.12.2018

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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:

Yes/No

whether reportable:

Yes/No