

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3148-2016 (O&M)

Date of decision: 14.12.2018

Kashmir Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Ms. GK Mann, Advocate for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

The petitioner was booked and tried in case FIR No. 84 dated 08.09.2010, under Sections 304-A, 279 and 427 IPC, Police Station Sarhali, District Tarn Taran, on the allegations that on 07.09.2010, Constable Navtej Kumar No. 1253/T.T., after discharging his duty was going home, while driving his Jeep make 'Marshal' bearing registration No. PB-02-AP-6786, followed by complainant-Jagan Nath, on a separate vehicle. When they reached near bridge of Sua Canal, Rest House, village Naushera Pannua, the petitioner, while driving his truck bearing registration No. PB-02-AP-9991, in a rash and negligent manner with high speed, struck against the said Marshal jeep of Navtej Singh. As a result thereof, jeep driven by Navtej Kumar and the offending truck, being driven by the petitioner, went off the road into the fields. Jeep of Constable Navtej Kumar, got badly damaged. Navtej Kumar got stuck

inside his jeep. The petitioner fled away from the spot. On seeing the accident, complainant-Jagan Nath, went to his home at village Nathupur and returned with his uncle Ruldu Ram. They took out the body of Navtej Kumar, from the jeep. After holding trial, the petitioner was held guilty under Sections 279 and 304-A IPC and sentenced as under:-

Under Section 279 IPC	To undergo rigorous imprisonment for 6 months and to pay fine of Rs.500/-. In default thereof, to further undergo simple imprisonment for 01 month.
Under Section 304-A IPC	To undergo rigorous imprisonment for 2 years and to pay fine of Rs.1500/-. In default thereof, to further undergo simple imprisonment for 02 months

Both the sentences were ordered to run concurrently.

Being aggrieved, the petitioner approached the Ist Appellate Court, but remained un-successful as his appeal too was dismissed vide judgment dated 04.06.2016.

Learned counsel for the petitioner *inter alia* contends that both the Courts below have failed to appreciate that there was delay of 10 hours in lodging the FIR. The petitioner was not apprehended at the spot. He was never subjected to identification parade. Therefore, the prosecution has failed to establish the identity of petitioner during trial. The deceased was in drunken state at the time of accident. The conduct of complainant-Jagan Nath as PW-1, is un-believable inasmuch as, he, instead of taking the alleged victim of accident to the hospital, went to his village leaving him un-attended at the spot. FIR in this case is ante time. PW-3 Ajit Singh Gill, testified that driver of the jeep Navtej Kumar, was in drunken condition. Site plan Ex. PW-6/C also did not favour the

prosecution story.

On the other hand, learned State counsel vehemently opposing the submissions of learned counsel for the petitioner, pleaded the legality and validity of impugned judgments of both the Courts below.

Having given thoughtful considerations to the rival submissions of both the sides, this Court finds the instant revision completely devoid of any merit for the reasons to follow:

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

In revision, this Court has very limited power, which can be exercised only, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally. After going through the judgments of both the Courts below, this Court does not find any such infirmity, inasmuch as, they are well-reasoned being based on appreciation of evidence. Therefore, the same are not required to be interfered with.

All possible arguments, which can be raised in a accident case, have been raised by learned counsel for the petitioner, without leaving no stone unturned for his acquittal. However, the same have no legs to stand. No circumstance has been brought forward by learned counsel for the petitioner that any of the Courts below has committed any such aforesaid irregularity or illegality.

PW-3 Ajit Singh Gill, In-charge of Transport, Rana Sugar Mill, Buttar Swian, categorically testified that the offending truck bearing

registration No. PB-02-AP-9991, belonged to their company. On the alleged date and time, petitioner-Kashmir Singh, was driving the said truck with which the accident took place in the evening of 07.09.2010. This witness even had gone to the extent of deposing that even petitioner-Kashmir Singh, approached him to produce him before the police and in turn, he produced him before the police. Therefore, it is evident on the record that the prosecution was successful in establishing the identity of the petitioner in causing the accident in question.

That apart, PW-3 Jagan Nath-complainant also specifically identifying the petitioner in Dock, deposed that he was the person responsible for causing the accident, while driving the offending truck in a rash and negligent manner. Both the above witnesses were cross-examined at length, but nothing favourable to the petitioner could be elicited from their mouth.

The drunken affair of the deceased, does not permit a truck driver to commit his murder. It is the bounden duty of a driver to drive his vehicle at moderate speed, abiding traffic rules.

Minor contradictions in the statements of prosecution witnesses, which are insignificant in nature, have rightly been ignored by both the Courts below, inasmuch as it is well-settled that statement of a witness has to be read as a whole and not in isolation. From the wholesome reading of the statement of the complainant, the only irresistible conclusion, which can be drawn, is that it is only the petitioner who was guilty in causing the accident, resulting into death of Navtej Kumar.

The petitioner did not lead any evidence in his defence, though, he opted for the same while recording his statement under Section 313 Cr.P.C. The same requires to draw adverse inference against him that he did not adopt any such exercise willfully and deliberately being guilty in his mind for causing the impugned accident. Petitioner failed to prove any ill will or motive of the prosecution witnesses that they had axe to grind against him.

In view of the discussion made above, the instant revision, being completely devoid of any merit, is dismissed.

A copy of this order be sent to the Chief Judicial Magistrate, Tarn Taran, who shall issue warrants of arrest against the petitioner to undergo remaining part of the sentence.

December 14, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No