

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-4189-2016 (O&M)

Date of decision: 12.11.2018

Suresh Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Shiv Kumar, Advocate for the petitioner.

Mr. Harpreet Multani, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Custody certificate filed by learned State counsel is taken on record. Office to tag the same at the appropriate place.

Through this revision, challenge has been laid to the judgment dated 02.09.2016 of the Ist Appellate Court, dismissing the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 31.10.2015 of the trial Court, vide which he was held guilty under Sections 279 and 304-A IPC and sentenced as under:-

<i>Offence under Section</i>	<i>Sentence Awarded</i>
Section 279 IPC	Rigorous imprisonment for six month and to pay fine of Rs.500/-. In default thereof, further undergo rigorous imprisonment for one week.
Section 304-A IPC	Rigorous imprisonment for two years and to pay fine of Rs.500/-. In default thereof, further undergo rigorous imprisonment for one month.

Both the sentences were ordered to run concurrently.

Briefly, the petitioner was booked, tried, held guilty and sentenced by the trial Court, vide judgment of conviction and order of sentence dated 31.10.2015, in the manner as narrated above, on the allegations that in the morning of 15.11.2016, the petitioner, while driving his car in a rash and negligent manner, coming from Banur side, hit the motorcycle of deceased-Jatinder Singh @ Babbu. As a result thereof, Jatinder Singh @ Babbu, suffering multiple injuries fell down on road and succumbed to the same at the spot.

Being aggrieved, the petitioner approached the Ist Appellate Court, but remained un-successful as his appeal too was dismissed vide impugned judgment dated 02.09.2016.

Learned counsel for the petitioner *inter alia* contends that petitioner has falsely been implicated, on the statement of one Kuldeep Kumar, who was never examined by the prosecution. No test identification parade was ever got conducted. Therefore, identity of the petitioner was also disputed. The deceased himself was negligent and responsible for his death, as he was driving his motorcycle in a rash and negligent manner. The judgments of both the Courts below are based on surmises and conjectures. Both the Courts below failed to appreciate that PW-3-Harbhajan Singh, had not witnessed the occurrence, inasmuch, as in his cross-examination he testified that he had come on the spot after hearing a noise.

On the other hand, learned State counsel vehemently

opposing the submissions of learned counsel for the petitioner, pleaded the validity and legality of the judgments of both the Courts below.

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

All possible defences, which can be raised in a motor vehicular accident case, have been taken up by learned counsel for the petitioner. Since, the same have already been discussed by both the Courts below, therefore, further discussion by this Court shall be a repetition. However, still in the interest of justice, they are dealt with.

As far as identity of the petitioner is concerned, PW-3 Harbhajan Singh, has categorically deposed that he had witnessed the accident. After the accident, the petitioner alighted from his car and on asking, he disclosed his name and whereabouts. When he was in the process of shifting his deceased nephew-Jatinder Singh @ Babbu, to the hospital to save his life, the petitioner fled away from the spot. PW-3 has nowhere stated in his cross-examination that he had not witnessed the occurrence or came at the spot after the accident occurred. Rather, this witness, in clear and unambiguous terms, stated that he had witnessed the occurrence. That apart, statement of a witness has to be read as a whole and not in isolation. If, we go through the entire statement of PW-3, the only irresistible conclusion which can be drawn is that it was only the petitioner, who had caused the accident, while driving his car in a rash and negligent manner, resulting into death of Jatinder Singh @ Babbu.

Non-examination of Kuldeep Kumar, aforesaid is not fatal to

the prosecution case, inasmuch, as quality of evidence has to be seen and not quantity. When PW-3 Harbhajan Singh, has fully proved the prosecution case to the hilt beyond any doubt, therefore, there was no necessity to examine Kuldeep Kumar.

Non-conducting of any identification parade for identification of the petitioner is not fatal, in view of the fact that PW-3 Harbhajan Singh, identified the petitioner in Court. More so, name of the petitioner was very much mentioned in the FIR, got recorded promptly. No colourable exercise has been placed. Therefore, there is no reason to disbelieve the statements of prosecution witnesses.

No ill motive or reason has been proved or pleaded by the petitioner against PW-3 Harbhajan Singh, to falsely implicate him. Statement of this witness is quite natural.

I have carefully gone through the impugned judgments of both the Courts below and find no illegality or perversity in the same. The instant revision, being meritless, is dismissed.

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

November 12, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No