

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.230

CRR-3376-2017 (O&M)
Date of decision : 23.04.2018

Balwinder Singh

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. N.S. Dhillon, Advocate, for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Arvind Bansal, Advocate, for the complainant.

SUDHIR MITTAL, J. (Oral)

One Jagdish Chand died due to a road accident on 29.09.2011.

A telephonic information in this regard was received by Police Station Guhla from Mahabir Dal Hospital, Cheeka. A police party reached the said hospital, where they were met by Raghbir Singh (brother of the deceased and other relatives). Raghbir Singh got his statement recorded, according to which, he and his deceased brother were employed in Mahabir Dal Hospital, Cheeka. They were returning home on bicycles after completion of duty and at about 8.30 p.m. when they reached near the fields of Karma at village Kharodi, a young person came on a motorcycle being driven rashly and negligently and hit his brother Jagdish Chand by coming on the wrong side. His brother fell down and sustained many injuries including head injury. Raj Kumar, father of the motorcyclist and a fellow villager, namely, Multan, also came at the spot. The complainant and Multan took the deceased to Mahabir Dal Hospital, Cheeka, where he was declared dead.

2. Vide judgment dated 24.04.2015, the Sub-Divisional Judicial Magistrate, Guhla, convicted the petitioner for offences under Section 279

and 304-A IPC. Sentence was imposed vide order dated 28.04.2015 as under:-

Name of the accused	Section of IPC, 1860	RI	Fine	I/D of payment of fine
Balwinder Singh	279	Six months	Rs.500/-	SI for fifteen days
	304-A	Two years	Rs.1000/-	SI for thirty days

3. An appeal was preferred, but the same was rejected vide judgment dated 25.08.2017, but sentence under Section 304-A IPC was reduced to one and a half year. Hence, the present revision petition.

4. Learned counsel for the petitioner submits that the Courts below have fallen in error in convicting the petitioner. His submission is that rash and negligent driving by the petitioner is not proved from the record. It is also not proved that the accident was caused by the motorcycle of the petitioner by coming on the wrong side of the road. PW-4 Multan is a planted witness. The deposition of witnesses on record has been misread by the Courts below and the petitioner deserves to be acquitted. In the alternative, it is prayed that sentence may be reduced to the period undergone.

5. Learned State counsel as well as learned counsel for the complainant, state that there is no error in the judgments of the Courts below. The evidence on record conclusively proves that the petitioner caused the accident by coming on the wrong side of the road and thus, this is not a fit case for exercise of revisional jurisdiction.

6. With the assistance of counsel for the parties, I have examined the record. The site plan is Ex. PW-6/D and photographs are Ex. P1 to P5.

The site plan clearly mentions the spot at which the motorcycle

was found after the accident and the said spot is on the right side of the road. The same has been proved by ASI-Satbir Singh (investigating officer of the case), who prepared the same and thus, there is no reason to doubt its correctness. Moreover, the photographs Exhibit P1 to P5 also show that the motorcycle was lying on the right side of the road and therefore, I cannot accept the submission of the learned counsel for the petitioner that the findings of the Courts below are erroneous. The complainant, namely, Raghbir Singh, is an eye-witness and he has fully supported the case of the prosecution. Even if, PW4 Multan is taken out of the equation, the conviction of the petitioner cannot be faulted.

7. In view of the above, there is no scope for interference in exercise of revisional jurisdiction.

8. The revision petition is dismissed, accordingly.

(SUDHIR MITTAL)
JUDGE

23.04.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No