

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

CRR No.4257 of 2017

Date of Decision: May 23, 2018

Gurjant Singh

..... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mrs. Anupam Bhanot, Advocate for the Petitioner.

Mr. Manish Bansal, D.A.G. Haryana for the Respondent-State.

SUDIP AHLUWALIA, J.

This Revisional Application is directed against the Judgment passed by Ld. ASJ, Sirsa in Criminal Appeal No.36 CRA of 2014 on 9.9.2017. The said appeal had been filed by the petitioner against the Judgment of his conviction for the offences under sections 279, 338 and 304-A of the IPC. After hearing and consideration on merits, the appeal was dismissed by the Ld. Sessions Court which affirmed the finding holding him guilty of rash and negligent driving of a Canter bearing No.RJ-31-G-0428, which hit Car No. RJ-31-CA-0495 and resulted in the death of complainant's uncle Ved Parkash and aunt Gian Devi, who were travelling in the said Car.

2. At the outset, it may be observed that in its Revisional Jurisdiction, this Court is not expected to re-visit or re-appreciate the evidence led during

the trial, which has already been considered by both the Ld. Courts below, who have returned identical findings holding the Petitioner guilty of the offences.

3. However, when the matter first came up for consideration before this Court, it was essentially urged on behalf of the Petitioner that both the Ld. Courts below had erred in holding him guilty as there was no material on record which could have enabled the prosecution witnesses to implicate the accused by name, since they did not have any prior acquaintance with him, and he had in any case run away from the spot of accident immediately thereafter. This Court therefore, directed the issuance of notice of motion after the Lower Court Records had been called for in view of specific contention of the Petitioner's counsel to the effect -

“that while petitioner's name has been disclosed in FIR since the very beginning, there is no explanation available as to how it became known to the complainant and others since admittedly he had run away from the spot immediately after the accident, and so the complainant or the eye-witnesses could have had no means to know his name.”

4. Having perused the available material in the Trial Court records and after considering the submissions raised on behalf of both the sides, this Court finds no merit in the above contentions raised on behalf of the Petitioner.

5. It is correct that neither the complainant nor any other eye witness is presumed to have any prior acquaintance with the Petitioner, nor could have known his name immediately, since he had admittedly run away from

the spot, but the FIR was not lodged instantly thereafter, and the affected persons would therefore, appear to have been in a position to enquire and gather some idea about the identity of the culprit in the meantime, although such knowledge derived hear-say would not have rendered their evidence admissible.

6. However, on perusal of the statement of PW-11 (Sumit Kumar) who happens to be the brother as well as constituted Attorney of Suresh Kumar, owner of Offending Canter, and who otherwise is not even an eye witness to the accident, the veil regarding identity of the culprit in the accident stands removed. This witness, while deposing on behalf of vehicle owner as his Attorney has specifically stated that the Petitioner had been employed as a Driver by the vehicle owner, and was driving the same on the relevant date. So even assuming that statements of the eye witnesses regarding identity of the Offending Driver were for any reason treated to be unreliable to any extent, still the categorical statement giving none other than owner of the vehicle himself through his Attorney would clearly make the prosecution case worthy of credit. The Petitioner's side has been unable to highlight from the deposition of PW-11 including his statement in cross-examination, which could throw any light as to why or with what motive, if any, he had wrongly mentioned the name of employee Driver as the culprit in the accident.

7. Two precious lives were lost in the said accident and the victims happened to be riders in the smaller of the two vehicles involved in the accident. Consequently even otherwise, this would not appear to be a fit

case to even consider any relaxation/remissions in the quantum of the sentence awarded and affirmed by the Courts below.

8. Dismissed.

May 23, 2018
AS

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No