

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

226

CRR-4308-2017

Date of Decision: April 20, 2018

Gulshan

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Drupad Sangwan, Advocate for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Sudhir Mittal, J. (Oral)

By way of instant revision petition, the petitioner seeks setting aside of judgment of conviction dated 21.05.2016 and order of sentence dated 23.05.2016 passed by Judicial Magistrate Ist Class, Hissar, whereby the petitioner was convicted under Section 279 and 304-A IPC and sentenced to undergo SI for a period of six months, under section 279 IPC and SI for two years and fine of Rs.3,000/-, under section 304-A as well as the judgment dated 08.11.2017, whereby appeal of the petitioner was dismissed by the Additional Sessions Judge, Hissar.

2. The deceased was one Ram Singh, resident of Jawarhar Nagar, Hisar, who worked as a waiter in Delux Hotel. The complainant is his son named Shekhar. On 25.01.2013, at about 11:00 P.M, the complainant went to Delux Hotel to meet the deceased (his father). After completing the work, both the complainant

and his father left for their home on separate bicycles. Near Dabra Chowk, a car came and hit the bicycle being driven by father of the complainant. As a result of it, his father fell down and the car sped away. The number of car was noted down by the complainant. Surender Kumar owner of the hotel was also present and both of them took Ram Singh to the General Hospital at Hisar, where he was declared brought dead.

3. On the basis of evidence on record, the learned trial Court convicted the petitioner and sentenced him as mentioned hereinabove. The appeal was also dismissed.

4. Learned counsel for the petitioner has drawn my attention to the statements of PW1-Diwan Singh and PW-2 Surender referred to in paras 6 and 7 of the judgment of learned trial Court, to submit that the material witnesses of the case did not know the person, who was driving the car and that they did not know whether the person present in Court was the same person who was driving the car on the date of accident. Thus, the submission is that the learned trial Court has misread the evidence on record. The petitioner has not been identified on the basis of the evidence produced by the prosecution and thus, his conviction is erroneous.

5. The prayer of the petitioner has been opposed by learned State counsel.

6. With the assistance of learned counsel for the parties, I have gone through the judgments of the courts below and I am of the view that the revision petition is mis-conceived and deserves to be dismissed.

7. The complainant; namely, Shekhar son of deceased Ram Singh has appeared as PW7. He has unequivocally stated that the car mentioned in the FIR had caused the accident and he has also identified the petitioner as the driver of the

said car.

8. That apart, the Courts below have also referred to the evidence on record to return a finding that the petitioner himself had taken the car involved in the accident on *sapurdari* and it is not in dispute that he is the owner thereof. Moreover, the bumper and number plate of the said car were recovered from the spot and the report of the Mechanical Examiner supports the finding that the same car caused the accident. The petitioner did not lead any evidence in his defence to show that someone else was driving the car on the date of the accident. Thus, there is no error in the impugned judgments of the Courts below and thus, there is no ground to interfere therewith.

9. No question of law arises for adjudication.

10. Accordingly, revision petition is dismissed.

April 20, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned :
Whether Reportable :

Yes
No