

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

CRR No.4639 of 2017 (O&M)

Date of Decision : 05.02.2018

Anil

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Manjeet Singh, Advocate
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

This revisional application is directed against the judgment passed by the Ld. Additional Sessions Judge, Rohtak in Criminal Appeal No. 67 of 2017 on 4th December, 2017 whereby the earlier judgment passed in the Criminal trial arising out of FIR No.106, dated 10th April, 2014 by the Court of Ld. Sub Divisional Judicial Magistrate, Meham, was affirmed.

2. The present petitioner had been found guilty of having driven his tractor in a rash and negligent manner at the relevant time, which resulted in causing the death of a minor boy namely Ashish who was aged 12 years.

3. Ld. Counsel for the petitioner has submitted that there are material inconsistencies in the prosecution evidence. The first

contention in this regard is that the complainant who deposed as PW-5 had in his statements/cross-examination admitted that he came to know about the name of the petitioner only after the Police Investigation. As such it is contended that the petitioner was not identified by the complainant as being the culprit Driver.

4. Such submission on the face of it in the opinion of this Court is fallacious. Getting to know the name of a person at a later stage can by no means be treated as some kind of admission that the person concerned was not actually seen by the witness at the relevant time, even though the name might not have been known to him.

5. It has been further contended that an uncle of the deceased-victim in his deposition as PW-7 had deposed that he reached the spot and saw the offending tractor, although according to PW-5 the Driver had fled away with the tractor immediately after the accident. This submission is again fallacious when considered in the light of the fact that the tractor in question was ultimately part by the Driver somewhere 100 to 140 mtrs. at the most, which certainly cannot be said to be so far away that the vehicle could not have been seen from near the accident spot.

6. The third submission raised is the alleged contradiction to the effect that one of the prosecution witnesses deposed that the victim was hit and died on the footpath, whereas another witness had

deposed that the victim was hit when he was trying to cross the road in order to go and purchase biscuits.

7. This Court has seen the sketch-map of the locale (Ex.PW1/E) from which it is seen that the accident spot marked “A” happens to be right on the junction of the road and the footpath located on its immediate West. Furthermore, on perusal of the photographs of the body of the deceased-victim lying at the spot (Exhibits PW1/C-5 and PW1/C-6), it is further confirmed that he is lying in a pool of blood on the very edge of the road adjacent to the footpath, and in fact his right hand is virtually touching the footpath itself, which would therefore clearly establish that there is no material contradiction in the statements of the witnesses.

8. In the given circumstances in their totality this Court finds no reasons to interfere with the impugned judgments. On the contrary the sentence awarded to the petitioner in the opinion of the Court is rather on the lighter side since the death of a minor was caused on the edge of the road.

9. For the aforesaid reasons, the petition stands dismissed.

February 05, 2018

Dpr

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No