

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

CRR-1969 of 2018(O&M)
Date of Decision:03.08.2018

Ramesh Kumar @ Wazir

....Petitioner

Versus

State of Punjab

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Deepak Choudhary, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

The instant petition preferred by the petitioner against order dated 09.05.2018 (Annexure P-2) of learned Additional Sessions Judge, Jalandhar, affirming the judgment of conviction and order of sentence dated 17.04.2017 of learned Sub Divisional Judicial Magistrate, Nakodar, whereby he has been held guilty under Section 304-A IPC in case FIR No.142 dated 30.06.2011 registered under Sections 304-A/279/427 IPC, at Police Station Nakodar, Jalandhar, and sentenced to undergo rigorous imprisonment for 01 year and to pay fine of Rs.1,000/- under Section 304-A IPC. In default thereof, to further undergo rigorous imprisonment for 15 days.

As per prosecution story, in day time of 29.06.2011, Jatinder Saini-deceased was going on his motorcycle bearing No.PB-67-B-9823 from his work place towards Nakodar side followed by his brother Arun Saini on a separate motorcycle. When deceased Jatinder Saini reached near chak Muglani, one Bolero Jeep bearing registration No.HR-37-B-0767 being driven in rash and negligent manner hit the motorcycle of his brother.

As a result thereof, Jatinder Saini fell down on receiving grievous injury on his forehead and succumbed to the same at the spot itself. In fact, driver of the offending jeep, after leaving the same, fled away from the spot. Dead body of Jatinder Saini was shifted to the Hospital by his brother Arun Saini PW-3. On this allegation, the petitioner was tried, held guilty, convicted and sentenced to the manner narrated above in the opening paragraph of the judgment.

Being aggrieved, the petitioner preferred appeal, but remained unsuccessful as his appeal too was dismissed.

Learned counsel for the petitioner has raised all possible arguments, which can be raised in an accident case i.e. no independent witness was examined by the prosecution, link evidence was missing; motorcycle of the deceased and the alleged offending jeep, were not got mechanically examined; the petitioner was not arrested on the spot; testimony of PW-3 Arun Saini, brother of the deceased has wrongly been relied upon by both the Courts below in the absence of any corroboration, he, being an interested witness. No photographs of the spot were taken by the police and therefore, investigation was tainted. Tyre marks of the offending jeep were also not got photographed. In such circumstances, it cannot be said that jeep was driven in rash and negligent manner. PW-5 Gurnam Singh had not supported the prosecution story, rather he turned hostile. There are major contradictions in the statements of prosecution witnesses, inasmuch as according to HC Bhajan Singh (PW-1), dead body of the deceased Jatinder Saini was shifted to the hospital by the Police, whereas as per the testimony of Arun Saini PW-3, dead body was shifted to the hospital by him with the help of passersby. The petitioner is facing this

protracted trial since 2011, therefore, he deserves leniency in the matter of the sentence, who is a first offender. Mens rea was not proved.

Having considered the submissions made by learned counsel for the petitioners, I find that the instant petition is completely devoid of any merit for the reasons to follow:-

No question of law, much less, substantial has been raised in this petition. Quality of evidence has to be seen and not quantity. PW-3 Arun Saini, in unambiguous terms, has supported the entire prosecution story, who is a witness to the accident. Learned counsel for the petitioner has not been able to point out any infirmity or impropriety in his statement made before the trial Court. Therefore, this Court is of the considered view that both the Courts below have rightly relied upon his deposition and convicted the petitioner.

In his Statement recorded under Section 313 Cr.P.C., the petitioner only pleaded his innocence. He did not lead any evidence as to whether there was any ill will or motive of the police or PW-3 Arun Saini to falsely implicate him. Turning hostile of PW-5 Gurnam Singh, relates to insignificant aspect of the case, inasmuch as he was not an eyewitness to the accident. If the investigation was not fairly conducted by the Investigating Officer, as alleged, in that eventuality, the petitioner could very well prove the mechanical reports of the offending jeep as also the motorcycle and the photographs of the spot to prove his innocence. Not adopting any such exercise by the petitioner, requires to draw an adverse inference against him that he did not do so intentionally and deliberately, knowing well that the same would go against him.

The discrepancies pointed out by learned counsel for the

petitioner are, in fact, no discrepancies in the eyes of law, inasmuch as they relate to insignificant aspect of the case.

I have gone through the impugned judgments and find no illegality or perversity in the same. Rather the same are well reasoned based on appreciation of evidence, warranting no interference therein.

In view of the discussion above, this petition fails and is dismissed.

03.08.2018
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No