

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

CRR-3063-2018 (O&M)

Date of decision : September 19, 2018

Mohd. Sajid

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Virat Amarnath, Advocate for the petitioner.

Mr. Bipan Ghai, Sr. Advocate with
Mr. B.S. Virk, Advocate for respondent No.2.

KULDIP SINGH J. (ORAL)

Heard.

The petitioner has challenged the order dated 23.08.2018, passed by the Additional Sessions Judge, Gurugram, vide which the petitioner has been charge sheeted to face trial under Section 308 & 304 of Indian Penal Code. The allegations in the FIR are that the petitioner was driving the vehicle bearing registration No. DL 7 CZ 0099 on wrong side of the road and hit a vehicle of Indigo Airlines. As a result of which, two persons died and one person received injury.

Learned counsel for the petitioner contends that it is a case of rash and negligent driving. However, keeping in view the fact that the petitioner was coming on the wrong side of the road and directly hit the vehicle bearing registration No. DL 1 ZA 4219 Indigo Airline, the Court could prima facie presume that the petitioner had the knowledge that it is likely to cause death of somebody. However, the Court is yet to record

evidence and come to the conclusion whether it was a case of simply rash and negligent driving or it was knowledge of the petitioner as stated above. Learned counsel for the petitioner has argued that in this case, charges under Sections 304 and 308 IPC has already been framed, though offence under Section 304A IPC is made out. I am of the view that though the petitioner can always to be convicted for the lesser offence, however, the rule of prudence require that an alternate charge under Section 304 A should also be framed in addition to charges under Section 308 and 304 IPC.

It being so, petition is disposed of upholding the charges framed against the petitioner with further direction to the trial Court to frame alternate charge under Section 304 A IPC also against the petitioner. Any observation made above shall not be taken into consideration while deciding the main case.

Disposed of accordingly.

(KULDIP SINGH)
JUDGE

September 19, 2018

anju rani

Whether speaking / reasoned Yes

Whether Reportable: No