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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-483-2019 (O&M)
Date of Decision : August 21, 2019

Subhash Petitioner

Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present : Mr. B.S. Khehar, Advocate
for the petitioner.

Mr. Ashok Muthreja, Deputy Advocate General, Haryana.
for the respondent-State.

SHEKHER DHAWAN, J.

Present revision petition is directed against the judgment of conviction and order of sentence dated 20.11.2015 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, vide which the petitioner was convicted and sentenced as under:-

Under Section	Sentence	In default
U/s 279 IPC	to undergo Rigorous Imprisonment for a period of 6 months and to pay a fine of Rs. 500/-.	To undergo further Rigorous Imprisonment for a period of one week.
U/s 337 IPC	to undergo Rigorous Imprisonment for a period of Six months and to pay a fine of Rs. 500/-.	To undergo further Rigorous Imprisonment for a period of one week.
U/s 304-A IPC	to undergo Rigorous Imprisonment for a period of Two years and to pay a fine of Rs.1000/-.	To undergo further Rigorous Imprisonment for a period of one week.

All the sentences were ordered to run concurrently.

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2. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned Sessions Judge, Yamuna Nagar vide judgment dated 16.02.2019.

3. Facts relevant for the purpose of decision of the present revision petition; that on 2.12.2010, a vehicular accident had taken place involving motorcycle bearing registration No.UP-12-G-1961 and car bearing registration No. DL-1C-G-3120. Meer Hasan, complainant of this case, got recorded FIR in the matter on the ground that he alongwith Satbir son of Satpal were going to Ambala on motorcycle No.DL-75-2560. Parvinder Singh and Nanu alias Noorhasan were also with them on another motorcycle bearing No.UP-12-G-1961, which was being driven by Nanu alias Noorhasan and Parvinder Singh was sitting on rear seat of the said motorcycle. At about 2.00 PM, when they reached near Sher Punjab National dhaba, a car bearing No. DL-1C-G-3120 came from 'Chhaper' side, which was being driven in rash and negligent manner and the car rammed in the motorcycle of Nanu. Resultantly, Nanu and Parvinder Singh fell down on the road. The name of the driver was disclosed as Subhash son of Ranbir (present petitioner). Injured were got admitted in the hospital where Nanu was declared dead. On this, police started investigation. Accused-petitioner was arrested. After completion of investigation proceedings, challan was presented before the trial Court.

4. During trial, learned trial Court completed various proceedings of trial including framing of charge, recording statements of prosecution witnesses and examination of the accused (petitioner herein) under Section 313 Cr.P.C. After considering the material and evidence available on

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record, vide judgment dated 20.11.2015, learned trial Court held the petitioner guilty and convicted and sentenced him as detailed in para No.1 above.

5. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned first appellate Court vide judgment dated 16.02.2019. Hence, this revision petition before this Court.

6. Learned counsel for the petitioner contended that the Courts below have not considered the factual and legal aspect of this case. In fact, in this case, there were two material witnesses examined during the trial and none of them have deposed anything material against the present petitioner. Complainant, Meer Hasan was examined as PW-5 and he had deposed that accused present in the Court was not the same person who had caused the accident. Another material witness examined before the trial Court was Parvinder Singh (PW-4), who had sustained injuries in the accident and he had simply taken the plea that he came to know about the accident on 10.12.2010 only whereas, the alleged accident took place on 2.12.2010. Another material witness, Satbir son of Satpal was not examined by the prosecution.

7. Learned State counsel contended that the Courts below have already appreciated the evidence available on record and the present revision petition deserves to be dismissed.

8. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that the material witnesses have not supported the prosecution case. in

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this case, there were two material witnesses examined during the trial and none of them have deposed anything material against the present petitioner. Complainant, Meer Hasan (PW-5) had deposed that accused present in the Court was not the same person, who had caused the accident. Parvinder Singh (PW-4), who had sustained injuries in the alleged accident had simply taken the plea that he came to know about the accident on 10.12.2010 though, the alleged accident took place on 2.12.2010. Satbir son of Satpal was another material witness, but he was not examined by the prosecution. The remaining witnesses were not in a position to depose anything material regarding identity of the accused or rash and negligent driving on the part of the petitioner resulting into causing of injuries to Parvinder or death of Nanu.

9. Despite the above discussed material evidence available on the file, learned trial Judge had wrongfully held the petitioner guilty for the offence punishable under Sections 279, 337 and 304-A IPC because the basic ingredients to be established in this case was that the accident had taken place because of rash and negligent driving of the accused facing the trial, which resulted into injuries to Parvinder and death of Nanu alias Noorhasan. Learned appellate Court has also not considered these material aspects of the case which resulted into miscarriage of justice. Apart from that, there was no material evidence available on the file so as to come to the conclusion that because of his rash and negligent driving, the petitioner has caused injuries to Parvinder and death of Nanu.

10. In view of the above, the present Revision Petition is accepted and the impugned judgment of conviction and order of sentence dated

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20.11.2015 passed by learned Judicial Magistrate Ist Class, Yamuna Nagar and judgment dated 16.02.2019 passed by learned Sessions Judge, Yamuna Nagar are set-aside. Resultantly, the petitioner is acquitted of the charge in this case and he be set at liberty forthwith, if not required in any other case.

11. The present revision petition stands allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

August 21, 2019
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes