

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 665 of 2019 (O&M)

Date of Decision: 28.05.2019

Ranjit Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Ishan Gupta, Advocate
for the petitioner(s).

Mr. Rajat Bansal, Assistant Advocate
General, Punjab for the respondent.

Shekher Dhawan, J.

Present revision petition against the judgment of conviction and order of sentence dated 14.09.2018, passed by the learned Judicial Magistrate Ist Class, Dhuri in case FIR No. 141 dated 09.10.2015, registered under Sections 304-A & 279 IPC at Police Station Dhuri, whereby petitioner was held guilty and convicted for the commission of offence under Sections 304-A & 279 IPC and sentenced as under:-

S.No.	Sentenced for the offence	Sentence awarded
1.	Section 304-A IPC	To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/-, in default whereof to further undergo rigorous imprisonment for a period of one month.

Petitioner preferred an appeal against the above said judgment of conviction and order of sentence. The learned lower Appellate Court, vide judgment dated 05.03.2019, affirmed the judgment of conviction and order of sentence, passed by the learned trial Judge and dismissed the appeal. As such, present revision petition.

Facts relevant for the purpose of decision of present revision petition that complainant-eye witness Mattu Ram had reported to the police that on 09.10.2015, his younger son Pushpinder Kumar had gone to market on his motorcycle bearing registration No. PB-13-AA-6686 for purchasing some household articles. He was being followed by the complainant on his auto-rickshaw. The son of complainant was going ahead of him on his motorcycle. At about 7.15 am, when his son reached near the shop of Anand Digital X-ray, a bus bearing registration No. PB-13-AF-1423 was coming from Sangrur bypass, which was being driven at a very high speed and in a rash & negligent manner and hit against the motorcycle of Pushpinder Kumar (since deceased) and resultantly, he fell down and sustained injuries. The motorcycle was completely damaged. The driver of offending bus fled away from the spot after causing accident. But as per complainant, he could identify the driver of the offending bus if he is produced before him. As per complainant, he had taken his son to the Civil Hospital, Dhuri and thereafter, he was referred to Rajindra Hospital, Patiala, where he succumbed to his injuries. On this information, FIR was registered, investigation proceedings were initiated, the accused, namely Ranjit Singh was arrested on 29.10.2015 and his statement under Section 161 Cr.P.C. was recorded. After completion

The learned trial Judge completed the proceedings of trial including framing of charge against the accused person, recording the statements of prosecution witnesses, statement of accused under Section 313 Cr.P.C. and in defence evidence, the accused opted not to lead any evidence. After considering the prosecution as well as defence versions, the learned trial Judge held the petitioner guilty and convicted him for the commission of offence under Sections 304-A & 279 IPC and sentenced him thereunder. Thereafter, appeal, preferred by the petitioner, was also dismissed by the learned Sessions Judge, Sangrur. As such, present revision petition before this Court.

At the time of arguments, learned counsel for the petitioner contended that both the learned Courts below have not considered the factual and legal aspects of this case. Learned counsel for the petitioner mainly contended that there is no eye witness to the alleged occurrence and petitioner has been falsely implicated in the present case. PW.8-Mattu Ram had not identified the accused person at the spot and identification of the accused for the first time at the trial stage does not mean anything. Learned counsel for the petitioner further contended that as per police case, Jaideep Singh had brought the injured to the hospital, but he was not examined.

Learned counsel for the petitioner further contended that the alleged accident had taken place on 09.10.2015 and petitioner was arrested on 29.10.2015. To the contrary, record of the school was taken into custody on 05.11.2015 and on that basis, petitioner was arrayed as an accused. But both the learned Courts below have not considered all these points, which

resulted into miscarriage of justice. As such, learned counsel for the petitioner prayed that present revision petition be accepted and petitioner be acquitted of charges.

Learned counsel for the respondent-State, while countering the arguments, contended that there is no dispute regarding identification of the accused person because PW.8-Mattu Ram, complainant, had firstly identified him on the spot, thereafter, in the police custody and for the third time during the course of trial. More so, petitioner was working as a driver in the Cambridge High School, Malerkotla and as per record of the school, produced by PW.6-Brijesh Saxena, Principal of the school, the driver of the offending bus, on the date of accident, was Ranjit Singh son of Jarnail Singh. To the contrary, the defence version is just a plea of denial and the learned trial Judge has rightly discarded the defence version and relied upon the prosecution evidence. The learned lower Appellate Court has rightly appreciated the prosecution evidence and dismissed the appeal. Learned counsel for the respondent prayed that present revision petition be dismissed.

Having considered the submissions made by learned counsel for the parties and appraisal of the record of the case, this Court is of the considered view that prosecution case is based on the testimony of PW.8-Mattu Ram, who is an eye-witness of the alleged occurrence. As per prosecution case, he had identified the accused person on the spot, thereafter, in the police station on 29.10.2015 and for the third time, before the learned trial Court. Similar controversy was before the Hon'ble Apex Court in **Ravi**

observed that the Court identification itself is a good identification in the eyes of law. It is not necessary that it must be preceded by the test identification parade. Such a view was also taken by the Hon'ble Apex Court in *State of Himachal Pradesh v. Lekhraj (2000) 1 SCC 247*, wherein it was observed that test identification parade is only corroborative piece of evidence and it is not binding that the same must be held if it is, otherwise, proved by statement of witnesses. Applying the same principle of law, in this case, prosecution has proved its case as per statement of eye witness PW.8-Mattu Ram and other oral and documentary evidence, which has been discussed in length by both the learned Courts below.

More so, in this case, as per record of Cambridge High School, Malerkotla, petitioner was working as driver on the bus bearing registration No. PB-13-AF-1423, which was involved in the accident.

In view of above, both the learned Courts below have rightly held the petitioner/accused guilty for the commission of offence under Sections 279 & 304-A IPC on the basis of prosecution evidence led in this case including statement of complainant/eye-witness PW.8-Mattu Ram, who well stood by the cross-examination apart from other prosecution evidence. The defence version has rightly been discarded on this point.

As regard to non-examination of Jaideep Singh by the prosecution, the learned Sessions Judge has rightly taken the view that mere non-examination of Jaideep Singh does not make out a case for acquittal of accused if it is otherwise proved. More so, accused cannot draw benefit of defective investigation. On this point, reliance was placed upon the

judgment rendered by the Hon'ble Apex Court in *Dayal Singh v. State of Uttaranchal (2012) 8 SCC 263*.

The learned trial Court has already appreciated the entire evidence and rightly held the petitioner guilty and convicted for the commission of offence under Sections 304-A & 279 IPC and sentenced him accordingly and the learned lower Appellate Court has rightly dismissed the appeal.

As regard to order of sentence, both the learned Courts below have already taken most reasonable view on the point of sentence as well and no further leniency is called for in the present revision petition. As such, present revision petition is without any merits and the same stands dismissed.

(Shekher Dhawan)
Judge

May 28, 2019
"DK"

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No