

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

Criminal Revision No. 854 of 2009 (O&M)

Reserved on : 24.5.2019

Date of decision : 28.5.2019

Baldev Singh

.... Petitioner

versus

State of Punjab

... Respondent

Coram: Hon'ble Mr. Justice Rajiv Sharma

Present Mr. G. L. Bajaj, Advocate, for the petitioner.

Mr. S. P. S. Tinna, Additional Advocate General, Punjab.

Rajiv Sharma, J.

1. This revision is instituted against the judgment dated 6.2.2009, rendered by learned Additional Sessions Judge, Ferozepur, in Criminal Appeal No. 5 of 2.4.2007 and judgment dated 9.2.2007, rendered by learned Judicial Magistrate 1st Class, Fazlika, by the petitioner. He was charged with and tried for the offence punishable under Section 304-A, 338 and 427 IPC. He was convicted and sentenced to undergo rigorous imprisonment for a period of one year under Section 304-A and 338 IPC each and to pay fine of ₹ 1,000/- under both the counts and in default of payment of fine, to undergo further rigorous imprisonment for a period of fifteen days. The Appellate Court has upheld the judgment of the learned trial Court.

2. The case of the prosecution in a nutshell is that on 4.9.1998, ASI Amar Nath received a wireless message from Police Station, Sadar, Fazlika. He along with other police officials reached Civil Hospital, Fazlika.

The doctor declared injured Amarjit Singh fit to make statement. ASI Amar Nath recorded the statement. He stated that on 3.9.1998, he along with Surat was coming from Chandigarh to their village Moolianwali, in Maruti Car bearing no. PB-22-3535. When they reached near the bridge of canal Dhippanwali, Malout Road, at about 7.30 P.M., a truck bearing No. PJA-2081, driven in rash and negligent manner came. It struck against their car. They received serious injuries. The driver of the truck ran away from the spot. One Arvinder Singh resident of village Moolianwali got them admitted in Civil Hospital, Fazlika. Injured Surinderpal Singh was referred to DMC Hospital, Ludhiana. Injured Surat Singh was referred to Amritsar. The accident took place due to rash and negligent driving of the truck driver. Surinderpal Singh succumbed to the injuries. The FIR was registered. The matter was investigated and challan was filed after completion of all the codal formalities.

3. The prosecution examined as many as 14 witnesses in support of the case. The statement of the accused was also recorded under Section 313 Cr.P.C. He denied the case of the prosecution. He was convicted and sentenced by the learned trial Court vide judgment dated 9.2.2007, as noticed above. The learned Additional Sessions Judge vide judgment dated 6.2.2009 dismissed the appeal and upheld the conviction and sentence awarded by the learned trial Court. Hence, the present criminal revision.

4. Learned counsel appearing on behalf of the petitioner vehemently argued that the prosecution has failed to prove its case. Learned counsel appearing for the State vehemently argued that the prosecution has proved its case beyond reasonable doubt and supported the judgment and

order of the learned Court below.

5. I have heard learned counsel for the parties and gone through the judgments and record very carefully.

6. PW1 Surinder Singh deposed that he is owner of the truck in question. He had obtained the agency of Coka Cola factory. On 3.9.1998 at about 7.00/7.30 Baldev Singh accused had brought truck bearing no. PJA-2081. 80 crates of Coke and 50 crates of Limca were loaded in the truck. Thereafter accused Baldev Singh had gone to village Panniwala. He came to know about the accident at about 10.00 at night.

7. PW2 Amarjit Singh and PW3 Surat Singh are the eye witnesses. PW2 Amarjit Singh testified that on 3.9.1998, he along with Surat Singh was coming to their village from Chandigarh in a Maruti car, driven by Surinderpal Singh. When they reached one kilometer ahead of village Dhippanwali, a truck bearing no. PJA-2081 driven in a rash and negligent manner struck against their car. It was 7.30 P.M. All the three occupants of the car received multiple injuries. He identified the accused.

8. PW3 Surat Singh has duly corroborated the testimony of PW2 Amarjit Singh and reiterated the manner in which the accident has taken place.

9. PW6 Harcharan Singh is the eye witness. On 3.8.1998, he was going on scooter towards village Dhippanwali. At about 7.30/7.45 P.M., a truck bearing no. PJA- 2081, driven by accused Baldev Singh was coming ahead of his scooter. One Maruti car bearing registration no. PB-22-3535 was coming. The truck was driven by the accused in a fast speed, rashly and negligently without giving any signal. It struck with the car and after the

accident, the driver ran away from the spot. The occupants of the car Surinder Singh, Surat Singh and Amarjit Singh had received injuries.

10. PW4 Subhash Arora has proved the RC vide Ex.PE of the car in question.

11. PW5 Ramesh Chander had mechanically checked both the vehicles and proved his reports, Ex.P5 and Ex. P6.

12. PW7 Ramesh Kumar had taken the photographs of the place of occurrence.

13. PW8 Dr. Rajesh Kumar, Medical Officer, has proved the post-mortem report, Ex.P33, of Surinderpal Singh.

14. PW12 Amar Nath was the Investigating Officer. He had carried the investigation. He got the post-mortem conducted.

15. The prosecution case is duly supported by PW2 Amarjit Singh, PW3 Surat Singh and PW6 Harcharan Singh. According to them, the truck was driven by the accused in a rash and negligent manner. It struck with the car. All the occupants of the car received serious injuries. One of the injured Surinderpal Singh succumbed to the injuries.

16. PW1 Surinder Singh has duly proved the presence of the accused at the spot. According to him, on 3.9.1998 at about 7.00/7.30, accused Baldev Singh had brought truck bearing no. PJA-2081. 80 crates of Coke and 50 crates of Limca were loaded in the truck. Thereafter, he had gone to village Panniwala. The truck was found mechanically fit. The witnesses had identified the accused. PW6 Harcharan Singh testified that accused Baldev Singh was known to him prior the occurrence. He used to come on truck of Coka-Cola.

17. PW9 Dr. Hans Raj, Medical Officer, had examined all the three injured Surinderpal Singh, Amarjit Singh and Surat Singh. PW8 Dr. Rajesh Kumar had conducted the post-mortem examination. Prosecution has duly proved the accident. The truck was driven by the petitioner in rash and negligent manner. It has come in the evidence that due to the accident, all the occupants of the car suffered serious injuries and one of them Surinderpal Singh succumbed to the injuries.

18. Learned counsel for the petitioner has vehemently argued that taking into consideration the peculiar facts and circumstances of the case, more particularly the age of the petitioner at the time of accident, a lenient view may be taken.

19. After hearing learned counsel for the parties and considering the judgments of both the Courts, this Court does not find any illegality in the conviction of the petitioner keeping in view the medical as well as ocular evidence led by the prosecution. The accident had taken place on 3.9.1998 and we are in the year 2019. The petitioner has gone through the agony and trauma of facing criminal case for the last more than 21 years.

20. Accordingly, the conviction of the petitioner is upheld. However, his sentence of imprisonment is reduced to the period already undergone.

21. The petition stands disposed of.

28.5.2019
vs

(Rajiv Sharma)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No