

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No.2501 of 2011

Date of Decision: January 23, 2019

Krishan Dayal

..... PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

. . .

PRESENT: Mr. N.K. Nagar, Advocate, for the petitioner.

Mr. H.S. Sullar, Deputy Advocate General, Punjab.

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Harnaresh Singh Gill, J

Prayer in this petition is for setting aside judgment dated 08.07.2011 passed by the Additional Sessions Judge (FTC), Ropar, whereby appeal filed by the petitioner – accused challenging judgment of conviction and order of sentence dated 29.11.2010 passed by the Sub Divisional Judicial Magistrate, Anandpur Sahib, has been dismissed and conviction & sentence of the petitioner – accused affirmed.

Vide judgment dated 29.11.2010 passed by the trial court, petitioner – accused has been convicted under Sections 279, 304-A IPC and has been sentenced under Section 279 IPC to undergo RI for a period of six months; and under Section 304-A IPC to undergo RI for 1 ½ years with fine of Rs. 400/-, and in default of payment of fine to undergo simple imprisonment for one month.

Brief facts giving rise to the present petition are that an accident occurred on 02.11.2004, involving scooter No.PB-16-7587 and truck No.HP-24A-1292, in which Baldev Singh, paternal uncle of complainant Amarjit Singh died at the spot. Driver of the truck disclosed his identity as Krishan Dayal (petitioner herein) and fled from the spot. FIR was registered at the instance of Complainant Amarjit Singh.

On completion of necessary formalities, challan was presented in the court and copies of documents supplied to the accused – petitioner under Section 207 Cr.P.C.

Finding a prima facie case, petitioner – accused was chargesheeted under Sections 279, 304-A IPC, to which, he pleaded not guilty and claimed trial.

In order to substantiate its case, prosecution examined as many as six witnesses.

Statement of accused under Section 313 Cr.P.C. was recorded enabling him to explain the incriminating circumstances appearing against him in prosecution evidence. He pleaded innocence and false implication.

After hearing learned counsel for the parties and on appreciation of evidence, petitioner – accused has been convicted and sentenced, as detailed above, by the trial court vide judgment/order dated 29.11.2010 which has been further affirmed by the lower appellate court vide its judgment dated 08.07.2011.

Now, petitioner – accused has challenged the judgments/orders passed by the courts below.

Learned counsel for the petitioner has contended that courts below have relied on the statement of complainant Amarjit Singh, the only

eye witness, which has not been corroborated by any independent witness. Solitary statement of complainant cannot be made the basis for conviction of accused for want of any corroboration. Baldev Singh (since deceased) was coming on to the main road from the link road at the time of accident. It was his duty to stop his vehicle and see as to whether the road was clear. Petitioner – accused was driving the truck at a normal speed and cannot be said to be rash and negligent. In this regard, learned counsel has relied upon decision of the Supreme Court in the case of **State of Karnataka vs. Satish, 1998 SCC (CrL.) 1508** to contend that driving at a high speed by itself does not imply negligence or rashness. Negligence or rashness would have to be established as a fact.

Learned counsel for the respondent – State, on the other hand, supported the impugned judgments and has submitted that findings returned by the courts below do not suffer from any infirmity or illegality. Each and every aspect of the case has been taken into consideration. The present revision petition filed by the accused deserves to be dismissed.

This court has considered the submissions made by learned counsel for the parties and gone through the record.

As regards to the first submission of learned counsel for the petitioner that statement of complainant cannot be made the basis of conviction of accused for want of corroboration. This court is of the view that lower appellate rightly held that since evidence of the single witness, if found to be fully trustworthy, can in law, be made the basis of conviction. Moreover, statement of complainant Amarjit Singh, clearly reveals that it is consistent and free from any blemish despite the fact that he was put to

lengthy cross examination and nothing incriminatory could be found. As such, his statement deserves to be accepted without corroboration.

The contention of learned counsel for the petitioner that truck was being driven at a moderate speed and it was not rash and negligent, is also belied. It has been established on record from the statement of PW-1 Amarjit Singh that truck was not being driven at his left side, rather it crashed against the scooter on the right side of road. Had the truck been driven in a proper manner, it would have been on the left side of road. The fact that truck was on the right side of road, is apparent from Mark A in the site plan Ex.PW6/C. As per the site plan, truck after dragging the scooter, stopped at a distance of about 25/26 square yards from Mark A, where it struck against the scooter. The lower appellate has rightly held that this very distance clearly shows that truck was coming at such a speed that it dragged the scooter alongwith the deceased to a great distance from the berm of the road on to its left side. Thus, it is held that truck was being driven wrongly on its right side, in a rash and negligent manner. In this view of the matter, it is clearly established that truck was being driven rashly and negligently, and thus, decision rendered in the case of **State of Karnataka (supra)** is distinguishable.

In the light of aforesaid discussion, this Court does not consider it a fit case to set aside the well reasoned judgments of courts below and to acquit the petitioner – accused.

However, taking into account the fact that petitioner is a first offender; he has been sentenced for a period of 1 ½ years and already undergone a period of six months as per the custody certificate; he is the only bread winner of his family, coupled with the fact that he has not

misused the concession of bail/suspension of sentence in the intervening period as also the fact that he is not involved in any subsequent case, this Court is of the considered view that ends of justice would be met if the conviction of petitioner is maintained and sentence of imprisonment of petitioner is reduced to the period already undergone by him.

Ordered accordingly. Petitioner shall be released forthwith.

Disposed of.

January 23, 2019
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(Harnaresh Singh Gill)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No