

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

CRR-856 of 2011

Reserved on : 22.05.2019

Date of decision : 24.05.2019

Shabir

.... Petitioner

Versus

State of Haryana

..... Respondent

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

Present: Mr. Deepak Sharma, Advocate,
for the petitioner.

Mr. G.S. Wasu, Additional Advocate General, Haryana.

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RAJIV SHARMA, J.

1. This revision petition is directed against judgment dated 05.02.2010 and order dated 06.02.2010, rendered by learned Judicial Magistrate Ist Class, Ambala City, in Criminal Case No. 395/1 of 2009 dated 14.11.2000, as well as against judgment dated 25.03.2011, passed by learned Sessions Judge, Ambala, in Criminal Appeal No. 7 dated 18.02.2010.

2. Petitioner Shabir was charged with and tried for the offences punishable under Sections 279, 337, 304-A IPC. He was convicted and sentenced by the learned trial court as under :-

<i>Offence</i>	<i>Sentence</i>
Under Section 279 IPC	Rigorous imprisonment for two months and to pay a fine of ₹ 500/- and in default of payment of fine, to further undergo imprisonment for a period of 15 days.
Under Section 337 IPC	Rigorous imprisonment for two months and to pay fine of ₹ 250/- and in default of payment of fine, to further undergo imprisonment for 10 days.
Under Section 304-A IPC	Rigorous imprisonment for six months and to pay fine of ₹ 750/- and in default of payment of fine, to further undergo imprisonment for 20 days.

All the sentences were ordered to run concurrently. Against his conviction and sentence, the petitioner filed appeal, which has been dismissed by learned Sessions Judge, Ambala.

3. The brief facts, necessary for adjudication of this petition, are that on 11.03.2000, at about 9.30 PM, Ravi son of Paramjit Sharma was going towards Ambala Cantt from Jagadhari Gate in a three-wheeler. When the three-wheeler reached on the GT Road, near Jandli bridge, one four-wheeler bearing registration No. DL-1LB/8128 came from the side of Chandigarh, at a high speed and in a rash and negligent manner. It hit in the three-wheeler. One passenger died at the spot. He and remaining four passengers also received injuries in the accident. He came to know the name of the driver as Shabir son of Shahnoor, resident of Okhla, New Delhi. The driver ran away from the spot. The injured persons were taken to Civil

Hospital, Ambala Cantt. The police visited the spot. The police recorded the statement of Ravi. FIR was registered. The injured were medico legally examined. Their MLRs were obtained. The petitioner was challaned.

4. The prosecution examined a number of witnesses in support of its case. The accused was also examined under Section 313 Cr.P.C. He denied the case of the prosecution. According to him, he was falsely implicated. He was convicted and sentenced, as noticed here-in-above. The appeal filed by him was also dismissed by the learned appellate court. Hence, this revision petition.

5. Learned counsel appearing on behalf of the petitioner has vehemently argued that the prosecution has failed to prove its case against his client and both the courts below have misread the oral as well as documentary evidence. Learned counsel appearing on behalf of the State has supported the judgments of the courts below.

6. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

7. PW.1 Ravi Sharma is the eye witness. According to him, on 12.03.2000, at about 9.30 PM, he was going towards his sister's house in a three-wheeler. There were three other passengers in the three-wheeler. When the three-wheeler reached at Chandigarh Road, new Jandli bridge, one truck bearing registration No. DL-1LB/128 being driven in a rash and negligent manner came and hit three-wheeler. He and other fellow passengers received injuries, whereas one passenger died at the spot. He identified the accused as driver of the vehicle. He gave his statement Ex.P1.

PW.2 Prithvi Raj, an injured witness, also deposed with regard to the

manner, in which the accident had taken place on 11.03.2000. He also deposed that the canter was being driven at a high speed in a rash and negligent manner. PW.3 Dr. D.K. Goel conducted post mortem examination on the body of Khairati Lal on 12.03.2000. He was 67 years of age. He noticed six injuries on the body of the deceased. The cause of death in this case was due to shock and haemorrhage due to injuries described in the post mortem report. The injuries were sufficient to cause death in natural course of life. The probable duration between death and post mortem was within 24 hours. The post mortem report is Ex.PW.3/A. PW.5 Dr. Arvinder Joshi medico legally examined Gurdesb son of Inder Sain. He noticed following injuries on his person :-

1. 6 x 2 cm lacerated wound over the chin.
2. 5 x 2 cm lacerated wound over the right eye brow.
3. 5 x 3 cm lacerated wound over the inner side of lower lip.
4. Patient had blunt injury over the chest. No wound seen.

PW.6 Head Constable Mahavir Singh visited the spot. He photographed the accidental Canter, three-wheeler as well as the dead body. PW.7 Subhash Chand mechanically examined Toyota Canter. He also mechanically examined three-wheeler without number and prepared the report Ex.PW.7/B.

8. The accident took place on 12.03.2000 and the statements of the witnesses were recorded in the year 2004. Hence, minor discrepancies in their statements were bound to occur. There is no merit in the contention of the petitioner that the accident took place, because three-wheeler over turned. There is no evidence to this effect. The petitioner had hit three-wheeler while driving the canter in a rash and negligent manner. There was

no occasion for the passengers to falsely implicate the petitioner. One person lost his life and other passengers suffered injuries in the accident.

9. 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 the accident, a lenient view may be taken. The accident had taken place on 11.03.2000 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 19 years.

10. Accordingly, the conviction of the petitioner under Sections 279, 337 and 304-A IPC is upheld. However, his sentence of imprisonment is reduced to the period already undergone.

11. Petition is, accordingly, disposed of.

May 24, 2019
ndj

(**RAJIV SHARMA**)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes