

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

Criminal Revision No. 3953 of 2014 (O&M)

Reserved on : 1.5.2019

Date of decision : 28.5.2019

Rajmahal Singh

.... Petitioner

versus

State of Punjab

... Respondent

Coram: Hon'ble Mr. Justice Rajiv Sharma

Present Ms. G. K. Mann, Advocate, for the petitioner.

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

Rajiv Sharma, J.

1. This revision is instituted by the petitioner against the judgment dated 26.11.2014, rendered by learned Additional Sessions Judge, Amritsar, in Criminal Appeal No. 1535 of 2013 dated 28.1.2013, and order dated 11.1.2013, rendered by learned Judicial Magistrate 1st Class, Ajnala. The petitioner was charged with and tried for the offence punishable under Sections 279, 338 and 427 IPC. He was convicted and sentenced to undergo rigorous imprisonment for a period of six months each under Sections 279 and 338 IPC and to pay fine of ₹ 100/- under Section 427 IPC by the trial Court. The Appellate Court has upheld the conviction under Section 279 and 338 IPC while acquitting the petitioner under Section 427 IPC.

2. The case of the prosecution in a nutshell is that on 10.8.2007, ASI Harjinder Singh received a telephonic message that Harbans Singh and Ravail Kaur were admitted in Navpreet Hospital. Thereafter, he along with other police officials reached Navpreet Hospital. He recorded the statement of injured Harbans Singh, who stated that on 31.7.2007, he along with his wife Ravail Kaur was going on scooter no. PB-02-T-8660. His son Angrej Singh was on separate motor-cycle. They were returning to their village after visiting village Kohali. At about 3.45 P.M., when they reached ahead of bridge of drain Kotla Doom on G. T. Road, one Tata Indigo car no. PB-02-AL-9194, came at high speed and struck against the scooter. They fell down and suffered multiple injuries. His wife suffered fracture. Scooter was also damaged. Driver of the car sped away from the spot. Angrej Singh brought them to Navpreet Hospital, Putlighar. FIR was registered. Accused was arrested on 10.8.2007. The matter was investigated and challan was filed after completion of all the codal formalities.

3. The prosecution examined as many as five 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 11.1.2013, as noticed above. The learned Additional Sessions Judge vide judgment dated 26.11.2014 partly allowed the appeal by acquitting the petitioner under Section 427 IPC and affirming the conviction and sentence awarded by the learned trial Court under Sections 279 and 338 IPC. 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. PW2 Harbans Singh testified that on 31.7.2007, he along with his wife Ravail Kaur was coming to his village on scooter no. PB02-T-8660. His son Angrej Singh was also coming on his motor-cycle along with them. At about 3.45 P.M., when they reached near bridge drain Kotla Doom, G. T. Road, Amritsar, a Indigo Car bearing registration no. PB-02-AL-9194, driven by its driver in a rash and negligent manner, came from Amritsar side and struck into the scooter. His right wrist was fractured. His wife Ravail Kaur also suffered fracture near biceps of right arm and elbow of her left arm. The driver ran away from the spot in his car. His son Angrej Singh admitted them in Navpreet Hospital, Putligarh. His statement was proved vide Ex.PW2/A. He identified the accused in the Court.

7. The statement of PW2 Harbans Singh is duly corroborated by PW3 Ravail Kaur and PW4 Angrej Singh, who reiterated the manner in which the accident was caused. According to the witnesses, the accused was driving the vehicle in rash and negligent manner.

8. PW1 Dr. Parkash Singh, Consultant Orthopedic, Navpreet Hospital, Putligarh, Amritsar, brought the register regarding operation of PW3 Ravail Kaur. Operation of right humerus and right radius was

undertaken on 2.8.2007. The prosecution has proved the injuries received by PW3 Ravail Kaur.

9. PW5 Hardev Singh, Clerk, office of SDM, Ajnala, has proved on record the driving license of the accused as Ex.PW5/A.

10. In the present case, the Investigating officer was not examined. It would not cause any dent in the prosecution case. PW1 Dr. Parkash Singh has specifically deposed that operation of PW3 Ravail Kaur was conducted in his hospital. Though there is delay in lodging the FIR, but the same has been explained. The first priority of PW4 Angrej Singh was to take his parents to the nearest hospital for treatment and not to lodge report with the police. The accused was identified by all the witnesses. The incident has taken place during day time. The Investigating officer had not witnessed the occurrence. The accident had been witnessed by PW2 Harbans Singh, PW3 Ravail Kaur and PW4 Angrej Singh. The prosecution has proved the case against the accused beyond reasonable doubt.

11. 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.

12. 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 31.7.2007 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 12 years.

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

14. The petition stands disposed of.

28.5.2019
vs

(Rajiv Sharma)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No