

CRR-843 of 2015 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-843 of 2015 (O&M)
Date of Decision: 28.02.2019

Rajinder Kumar @ Rajinder Singh
....Petitioner

Versus

State of Punjab
....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Naveen Sharma, Advocate, for the petitioner.
Mr. Harpreet Multani, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through instant revision, petitioner has laid challenge to judgment dated 11.02.2015 of the Appellate Court, affirming the judgment of conviction and order of sentence dated 13.10.2014 of the trial Court holding him guilty and sentencing as under: -

Sentence under Section	Imprisonment	Fine	In default of payment of fine further RI
279 IPC	RI for three months	---	---
304-A IPC	RI for one year	Rs.1,000/-	One month
337 IPC	RI for three months	---	---

Briefly, petitioner was booked, tried, held guilty and sentenced as narrated above in the opening part of the judgment by the trial Court vide judgment of conviction and order of sentence dated 13.10.2014, on the allegations that in the evening of 02.02.2010, he while driving his bus in a rash and negligent manner and also in a high speed struck against the bullock cart of the complainant. As a result, complainant and his mother

Nasir Kaur received multiple injuries, on account of which, mother of the

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complainant, succumbed to her injuries received after eight days of the accident on 10.02.2010. His bull also suffered injuries and cart also got damaged.

Being aggrieved, petitioner preferred appeal, but remained unsuccessful as his appeal too was dismissed by the Appellate Court vide judgment dated 11.02.2015.

Learned counsel for the petitioner *inter alia* contends that both the Courts below failed to appreciate that petitioner was not apprehended on the spot. Complainant as PW3 admitted in his cross-examination that name of the petitioner was told to him as driver of the offending bus by owner of bus. Even description of the petitioner was not disclosed by the complainant to police at the time of lodging the FIR. PW6 Karnail Singh turned hostile. He did not identify the petitioner. Prosecution did not produce any record of bus to prove that on the alleged date and time, petitioner was driving the offending bus. Therefore, identity of the petitioner was not established. Eyewitness namely, Sukhchain Singh, who was allegedly travelling in the offending bus at the time of impugned accident, was not examined. No independent witness was joined by the Investigating Officer PW11 ASI Balraj Singh. Even the aforesaid Investigating Officer did not take into possession the record from the alleged employer of the petitioner to prove that he was driving the offending bus at the time of accident. Even driving license of the petitioner was not taken into custody.

On the other hand, learned State counsel, refuting the above submissions, pleaded the legality and validity of impugned judgments of both the Courts below.

Having given thoughtful consideration to the rival submissions,

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this Court finds the instant revision completely devoid of any merit for the reasons to follow.

No question of law much less substantial has been raised in this revision.

A human being has lost her precious life in the accident in question on account of negligence of the petitioner, who was identified in dock, during trial. For any lapse on the part of the prosecution or Investigating Officer, complainant, who has lost his mother, cannot be made to suffer. Injured-complainant himself had received injuries. Therefore, he, being an eye-witness of the accident, identified the petitioner in Court. Identity of the petitioner-accused, for the first time, in the dock is the proper identification beyond any doubt.

Both the Courts below have recorded concurrent findings against the petitioner.

All the submissions made by learned counsel for the petitioner before this Court have already been dealt with in detail by the Courts below. Therefore, their further discussion would be a repetition and wastage of precious time of the Court.

In revision, this Court has very limited power, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally. After going through the judgments of both the Courts below, this Court does not find any such infirmity, inasmuch as, they are well-reasoned and based on appreciation of evidence. Therefore, the same are not required to be interfered with.

Dismissed.

A copy of this judgment be sent to learned Chief Judicial

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Magistrate, Bathinda, to procure his presence by all methods, including coercive one, to undergo remaining part of the sentence.

February 28, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No