

CRR-1894 of 2017

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

CRR-1894 of 2017
Date of Decision: 01.02.2019

Bhupender Singh

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Ms. Shubreet Kaur, Advocate, Amicus Curiae, for the petitioner.
Mr. P.K. Garg, AAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Custody certificate filed in Court today is taken on record.

Through this revision, accused has laid challenge to judgment of conviction dated 25.04.2017 and order of sentence dated 26.04.2017 holding him guilty and sentencing to undergo rigorous imprisonment for six months under Section 279 IPC and to undergo rigorous imprisonment for one year and pay fine of ₹2,000/- under Section 304-A IPC; in default thereof to undergo rigorous imprisonment for one month.

Briefly, on 27.10.2009, brother of respondent No.2-complainant namely, Ranbir had gone to his in-laws' house from where he accompanying his brother-in-law Raju alias Rajesh proceeded towards Sirsa to fetch domestic articles. However, in the evening he received information about the death of both of them in a roadside accident ahead of District Jail at Barnala Road, Sirsa. Consequently, respondent No.2 along with other

persons reached the spot and found serious injuries on the head of his

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brother Ranbir and on the legs of Raju alias Rajesh. Both had died in same roadside accident caused by driver of a tractor-trolley while driving the same in a rash and negligent manner. Aforesaid version of respondent No.2 was culminated into FIR No.186 dated 27.10.2009 under Sections 279, 304-A and 427-A IPC by police of Police Station Sadar, Sirsa. After due investigation and its completion, final report under Section 173(2) Cr.P.C. was filed against the petitioner in Court.

The trial Court after framing charge and holding trial acquitted the petitioner vide judgment dated 19.12.2014.

Being aggrieved, complainant preferred appeal, which was accepted vide judgment dated 25.04.2017 holding petitioner guilty and sentencing him in the manner as narrated above in the opening part of the judgment vide order of sentence dated 26.04.2017.

Learned counsel for the petitioner *inter alia* contends that no test identification parade was conducted. FIR was registered against unknown driver. Identification of the petitioner in Court for the first time is no identification. Question of identification of the petitioner by PW2 Bal Krishan in the headlights of the vehicles is highly improbable because he was not knowing the petitioner earlier. It was a blind accident. No one was present at the time of accident as is clear from the statement of PW9 ASI Banwari Lal. Tractor-trolley from which the accident had allegedly occurred causing death of two persons was not found parked on the spot. Statement of PW2 Bal Krishan, recorded after one day of the accident, has wrongly been relied upon by the First Appellate Court, because he came to the spot after the accident had already occurred, but did not report the matter

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a sane person will definitely report the accident to the police without loss of time in which his two known persons/relatives had died.

On the other hand, learned State counsel vehemently opposing above submissions, pleaded the legality and validity of the impugned judgment of conviction and order of sentence submitting that petitioner was duly identified by PW2 Bal Krishan on the spot at the time of accident and thereafter in the Court. Therefore, complicity of the petitioner is proved beyond any doubt. Offending tractor-trolley was produced by the petitioner before the police voluntarily without any pressure or notice, which he later on got released on sapurdari, claiming himself to be owner of the same. Even petitioner had surrendered himself before the police. As per mechanical report Ex.PW4/A, offending tractor-trolley was having scratches on its front portion, which proved that it had met with some accident. No defence was led to rebut the prosecution story.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

Petitioner did not lead any evidence to show that prosecution or the complainant and eye-witness PW2 Bal Krishan had any axe to grind against him. No ill-motive of them is proved by the petitioner. Therefore, statement of PW2 Bal Krishan has rightly been relied upon by the First Appellate Court while rendering the impugned judgment.

PW2 Bal Krishan in his statement categorically testified that he had identified the petitioner in the headlights of the vehicles passing through the spot. Even this witness again identified the petitioner in Court.

There was no material produced by the petitioner to rebut the above

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statement.

Ordinarily, a person becomes perturbed and confused on seeing a roadside accident causing death of two persons. At that moment he is not able to think as to how he should proceed or to whom he should approach. His paramount consideration is to take care of injured and dead bodies and shift them to nearby hospital. Therefore, it is not unusual that PW2 Bal Krishan did not come forward on the date of accident itself to make statement before the police. However, on the very next date, he approached the police and narrated the manner in which accident took place, specifically giving description of the offending tractor-trolley, which was, admittedly, got released by the petitioner on sapurdari.

Petitioner, being guilty, himself surrendered before the police after four days of the accident, which is again a strong circumstance to presume that he, being guilty in his mind, had on his own gone to the police to surrender. Thus, there was no necessity to conduct identification parade to establish the identify of the petitioner inasmuch as petitioner was already identified by PW2 Bal Krishan on the date of accident and thereafter in dock. He narrated the manner of accident and registration number of the offending tractor owned by the petitioner. PW2 Bal Krishan had categorically testified that petitioner was driving his tractor in a rash and negligent manner and also with a high speed and struck the motorcycle of the deceased coming from the opposite side.

I have gone through the impugned judgment of conviction and order of sentence and find no illegality or perversity in the same.

Dismissed.

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Sirsa, for issuance of arrest warrants of the petitioner to undergo remaining part of sentence.

February 01, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

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