

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-1405-2018 (O&M)
Date of Decision:- 3.5.2019

Pardeep Sharma ... Petitioner

Versus

U.T. Chandigarh ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Roopak Bansal, Advocate, for the petitioner.

Mr. Manish Jain, Addl. P.P., U.T. Chandigarh.

GURVINDER SINGH GILL, J.

1. Petitioner-Pardeep Sharma assails judgment dated 26.2.2018 passed by learned Sessions Judge, Chandigarh, whereby an appeal filed by the petitioner challenging his conviction as recorded by learned Judicial Magistrate 1st Class, Chandigarh vide his judgment dated 6.12.2016 for offences under Sections 279 and 304-A IPC has been dismissed.
2. The prosecution story, in nutshell, is that on 14.10.2010 when Constable Pawan Kumar was on beat duty in Grain Market, Sector 26, Chandigarh, he saw a person wearing helmet park his scooter on the paved parking and while he was crossing the road after parking

his scooter, a truck bearing registration No.HP-62-A-5673 came from the side of Police Lines gate No.1 towards Bapu Dham Colony at a high speed and which was being driven in a rash and negligent manner and the said truck hit against the person crossing the road and as a result of which the said person fell down. The truck driver sped away from the spot with his truck. The injured was taken to hospital but the injured succumbed to his injuries. The FIR came to be lodged on the basis of statement of Constable Pawan Kumar.

3. After conclusion of investigation, challan was presented and charges were framed against the accused. The prosecution examined PW-1 Constable Pawan Kumar, complainant; PW-2 ASI Parkash who had mechanically examined the offending truck; PW-3 Ganesh Singh, relative of deceased who had identified the dead body; PW-4 Tirlok Singh, another relative of the deceased who had also identified the dead body; PW-5 HC Balbir Singh, MMHC; PW-6 Rajesh Pal, official of the Registering and Licencing Authority, Chandigarh; PW-7 Sanjay Kumar, dealing Assistant State Transport Authority, Shimla; PW-8 SI Parmal Singh, Investigating Officer; PW-8 (wrongly numbered) Dr. Parijat, EMO, who had conducted Post Mortem examination; PW-9 HC Rajesh Kumar, Photographer and PW-10 Tej Singh, owner of the offending truck.
4. Upon conclusion of prosecution evidence, statement of the accused was recorded in terms of Section 313 Cr.P.C. wherein he denied the entire prosecution evidence and pleaded innocence. However, the petitioner did not lead any evidence in his defence. Learned trial

Court upon perusing the evidence led by the prosecution found the accused/petitioner guilty of having committed offence punishable under Sections 279 and 304-A IPC and convicted the petitioner vide judgment dated 6.12.2016 and sentenced him on 9.12.2016 as follows:

Under Section 279 of Indian Penal Code	Rigorous Imprisonment for six months along with fine of Rs.1000/- (Rs. One thousand only) and in default of payment of fine to further undergo simple imprisonment for one month.
Under Section 304-A of Indian Penal Code	Rigorous Imprisonment for two years along with fine of Rs.2000/- (Rs. Two thousand only) and in default of payment of fine to further undergo simple imprisonment for two months.

5. The appeal filed by petitioner challenging the aforesaid judgment dated 6.12.2016 and order of sentence dated 9.12.2016, passed by learned Judicial Magistrate 1st Class, Chandigarh, was dismissed vide judgment dated 26.2.2018 passed by learned Sessions Judge, Chandigarh, which has been assailed by way of filing the present petition.
6. Learned counsel for the petitioner has submitted that there are various discrepancies in the prosecution evidence that while in the

FIR it has been stated that the offending vehicle was coming from the side of Police Lines, the complainant while in the witness box stated that the offending vehicle had come from the side of Grain Market.

7. I have considered the aforesaid submission. Grain Market and the Police Lines are both situated in Sector 26 and a road separates the Grain Market and the Police Lines. In these circumstances, it can hardly be said that there is any discrepancy in the description of the place where the accident took place.
8. It has next been submitted that no test identification was conducted in the matter and since the accused was not arrested at the spot and nor was seen by the complainant at the spot, it cannot be said that he has been identified.
9. I have considered the aforesaid submission. In the present case the identification of the accused cannot be called in question as the owner of the truck, which the accused was driving has categorically admitted that the accused was working with him since the last 4 months and was driving the truck in question at the time of accident on 14.10.2010. The aforesaid statement of PW-10 Tej Singh, owner of the truck leaves no manner of doubt regarding identification of the accused or regarding the fact that it was the accused who was driving truck in question on the fateful day at the place of occurrence.
10. During the course of arguments, it was also submitted that in fact the accident occurred on account of the fact that the deceased was wearing helmet while crossing the road and due to which his

movement of the neck was restricted as a result of which he could not notice the truck coming on the road.

11. I have considered the aforesaid submission. It cannot be said that wearing of helmet would absolutely restrict the movement of the neck as in case it was so, wearing of helmet would itself cause several accidents. In any case PW-1 Constable Pawan Kumar, complainant having categorically stated that the accident had occurred on account of rash and negligent driving on part of the accused and whose statement remained unshattered despite cross-examination, the aforesaid submission does not carry any weight and is repelled.
12. Upon perusal of the impugned judgment passed by learned Judicial Magistrate 1st Class and by the learned Sessions Judge, I find that the Courts below have duly appraised the evidence and have marshalled the evidence minutely and it cannot be said that there has been any misreading of the same so as to justify interference. I do not find any infirmity in the findings of conviction, as recorded by the learned Judicial Magistrate 1st Class, Chandigarh and as upheld by the learned Sessions Judge, Chandigarh and the same are hereby upheld.
13. As regards the sentence, I find that the petitioner is not stated to be a previous convict. As such, there could be some room for reduction in sentence.
14. Keeping in view the fact that the petitioner is not a previous convict, the substantive sentence of imprisonment as imposed upon the petitioner in respect of offence under Section 304-A IPC is reduced

from 2 years to 1 year and 9 months. The sentence of imprisonment in respect of offence under Section 279 IPC and the fine imposed in respect of both the offences shall however remain unaltered.

15. The petition, as such, is dismissed with aforesaid modification in sentence.

May 3, 2019

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No