

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

461

**Criminal Revision No. 88 of 2017 (O&M)
Date of Decision :21.05.2019**

Jaswinder Singh

... Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Gurmeet Singh, Advocate for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

HARNARESH SINGH GILL, J.

This appeal has arisen out of the judgment dated 15.10.2016 passed by the learned Sessions Judge, Patiala, whereby while dismissing the appeal filed by the petitioner, the judgment of conviction and order of sentence dated 11.09.2015, passed by the learned Sub Divisional Judicial Magistrate, Rajpura, has been upheld.

The petitioner was tried for committing an offence under Sections 279, 337, 338 and 304-A IPC. As per prosecution case, complainant Hazara Singh, resident of village Alimajra, Police Station Sadar, Rajpura made a statement that on 08.02.2009 at 6:15 a.m., he along with his brother Gurcharan Singh had come at Gagan Chowk, Rajpura to drop him. At Gagan Chowk, Rajpura, a private bus bearing PB-23E-4189 came from the Ambala side and it was signaled to stop. Brother of the complainant (Gurcharan Singh) had boarded the said bus along with the other passengers. At that time, the complainant was standing on the road. Gurcharan Singh took the rear seat in the bus. In

the meantime, a Scorpio vehicle came there. Some persons alighted from the said vehicle and boarded the bus along with the brother of the complainant. Thereafter, an Indica car bearing No. CH-03Z-2400 came there from Chandigarh side and tried to overtake the bus. In the meantime from Ambala side a truck bearing No.HR-37B-6131, being driven in a rash and negligent manner by its driver, came and struck into the backside of the bus. As a result thereof, Indica car got entangled with the said bus. The passengers of the bus had received injuries. Gurcharan Singh, brother of the complainant, became unconscious. After arranging the vehicle, the complainant had shifted the injured to the Civil Hospital, Rajpura, where the Doctor declared him dead. The passengers of Indica car were also taken to the Civil Hospital, Rajpura out of whom two persons were declared dead and two women had been referred to PGI, Chandigarh. Later on, the complainant came to know about the names of the deceased as Jasbir Singh and Gurdev Singh of village Pathreri, Rajputtan, District Ropar. The said accident took place due to the rash and negligent driving of the driver of truck No. HR-37B-6131 and in that accident bus No.PB-23E-4189, Indica car No.CH-03Z-2400 and Scorpio vehicle No.PB-10BL-5298 were also damaged. On the basis of the said statement, the FIR was registered. Investigation was conducted. Inquest proceedings were also conducted.

On the evidence led, the guilt of the accused-petitioner under Sections 279, 337, 338 and 304-A IPC stood proved. Accordingly, the petitioner was sentenced to undergo rigorous imprisonment for two months, each under Sections 279, 337 and 338 IPC whereas he was sentenced to undergo rigorous imprisonment for two years and to pay

fine of Rs.200/- and, in default of payment of fine, to further undergo simple imprisonment for 7 days under Section 304-A IPC.

Aggrieved against the judgment and order passed by learned trial Court, the petitioner preferred an appeal before the learned Sessions Judge, Patiala. However, vide judgment dated 15.10.2016, the appeal filed by the petitioner was dismissed, thereby affirming the judgment and order passed by the learned trial Court.

Still aggrieved, the petitioner has preferred the present revision petition.

Admittedly, on account of the accident in question, caused by the petitioner being the driver of the offending truck, three people had lost their life. The finding of guilt recorded by the Courts below is based upon the cogent and convincing evidence led by the prosecution. This Court under its revisional jurisdiction cannot reappreciate the evidence, especially when there is no illegality or perversity in the findings recorded by the courts below. Therefore, there being no merit in the present revision petition, the same is liable to be dismissed.

Faced with this situation, learned counsel appearing for the petitioner fairly submits that without disputing the factum of conviction of the petitioner, he confines his prayer to the quantum of sentence only. It is contended that the occurrence in question took place on 08.02.2009 pursuant where to, the FIR was registered on the same day. The petitioner has been facing the agony of the protracted trial for the last more than 10 years. It is further submitted that the petitioner has already undergone one year one month and twenty four days of actual sentence, including remission. Thus, the petitioner being a poor person and the only bread

winner of the family, no purpose would be served by sending him behind the bars once again to undergo the remaining period of sentence. Rather the said process will drive the family of the petitioner on the verge of starvation as there is no other earning member in the family. It is thus, prayed that sentence imposed upon the petitioner may be reduced to the one already undergone by the petitioner.

Keeping in view the totality of the facts and circumstances of the case, I am of the considered opinion that ends of justice would be suitably met if the sentence imposed upon the petitioner is reduced to the one already undergone by him subject to payment of Rs.20,000/- which shall be treated as compensation to be paid to the legal heirs of the deceased.

Ordered accordingly.

The aforesaid amount shall be deposited before the Chief Judicial Magistrate concerned within two months from the date of receipt of certified copy of this order, who in turn will disburse the same amongst the legal heirs of the deceased in equal proportion.

It is made clear that failure to deposit the aforesaid amount shall entail the automatic dismissal of the revision petition without any reference to the Bench.

Disposed of in the above terms.

21.05.2019

pooja saini

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No