

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 3812 of 2018

Date of Decision: 26.02.2019

Sukhdev Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Naveen Sharma, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present revision petition is against the judgment of conviction and order of sentence dated 08.01.2018, passed by the learned Judicial Magistrate Ist Class, Jalandhar in case FIR No. 77 dated 15.07.2012, registered under Sections 279, 337, 338, 427 & 304-A IPC at Police Station Cantt. Jalandhar, whereby petitioner was convicted and sentenced as under:-

Sr. No.	Offence Punishable	Sentence awarded
1.	279 IPC	To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/-, in default whereof to further undergo rigorous imprisonment for a period of 15 days.
2.	337 IPC	To undergo rigorous imprisonment for a period of six months.
3.	304A	To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default whereof to further undergo rigorous imprisonment for a period of one month.

All the sentences were ordered to run concurrently. Appeal, filed by the

petitioner, was dismissed by the learned Sessions Judge, Jalandhar vide judgment dated 01.11.2018 and as such, present revision petition before this Court.

Facts relevant for the purpose of decision of the present revision petition that on 14.07.2012, Naveen Kumar, complainant in this case, reported to the police that on that date at about 11.00 a.m. he was going on his Splendor motor cycle bearing registration No. PB-08-BQ-3643 and his father Ram Kishan and mother Narinder Kaur were going on their scooter Bajaj Chetak bearing registration No. PB-08-Q-1323 ahead of him. When they reached at PAP Gate No. 2, G.T. Road, Jalandhar, one Indica car bearing registration No. HP-03-6800 came in a rash and negligent manner and hit the scooter of his father Ram Kishan and thereafter, the said car struck against the divider of the road. As a result of this accident, his father Ram Kishan and mother Narinder Kaur fell down on the road and sustained injuries. The scooter was also badly damaged. The car driver tried to run away from the spot, but he was apprehended by the persons who gathered there. The driver of the car disclosed his name as Sukhdev Singh (petitioner). Thereafter, he fled away from the spot. Some unknown persons passed on the message to the police. The police reached at the spot. The injured were shifted to the hospital. Petitioner was arrested in the case. On 19.07.2012, Narinder Kaur died because of injuries having been sustained in the accident. The investigation was completed and challan was presented in the learned trial Court. The learned trial Judge convicted and sentenced the petitioner after trial. Appeal, filed by the petitioner, was also dismissed by the learned Appellate Court.

Learned counsel for the petitioner contended that both the learned Courts below have not considered the true facts of this case. Both the learned Courts below relied upon the testimony of PW.1-Naveen Kumar, who has been held to be an eye witness, but his presence on the spot itself is in doubt. As per record, PW.1-Naveen Kumar had not taken the injured person to the hospital. More so, the ocular testimony does not reconcile with the site plan prepared by the Investigating Officer. In fact, the scooter was being driven in a rash and negligent manner in a wrong direction. There are contradictions in the statements of PW.3-Ram Kishan (injured) as well as of PW.7-Gurdev Singh, Assistant Sub Inspector, when he was deposing that some person from the public informed that Sukhdev Singh son of Karam Singh was driving the vehicle. Petitioner himself is aged more than 60 years and both the learned Courts below have not considered him to be released on probation, though he was not a previous convict. Thus, the judgments rendered by both the learned Courts below be set aside.

Having heard learned counsel for the petitioner and perusal of the record, this Court is of the considered view that prosecution case is based upon the testimony of PW.1-Naveen Kumar and PW.3-Ram Kishan. As per these witnesses, petitioner-Sukhdev Singh was driving Indica Car, which had hit the scooter from the back side. The plea taken by the petitioner that PW.3-Ram Kishan had taken a wrong turn all of a sudden, has not been proved in any way. If the scooterist was going ahead of the petitioner, it was the duty of the petitioner to control the car and drive it at a reasonable distance so as to apply the brakes and control his own vehicle. Both the learned Courts below have also considered the fact that accident had taken

place on G.T. Road from Ludhiana to Jalandhar and there was no need for the complainant to take turn from point “A” as there is no U-turn in between except PAP chowk. Both the learned Courts below have already scrutinized the testimony of eye witness and injured along with medical evidence and other documentary evidence available on the file and was of the view that prosecution version has been proved on the file, whereas defence version is nowhere nearer to the truth. The learned Appellate Court has also applied its judicious mind and maintained the judgment of conviction and order of sentence rendered by the learned trial Court. Thus, present revision petition is without any merit as regard to the judgment of conviction.

As regard to the order of sentence, the learned trial Judge has already taken a reasonable view keeping in view the offence alleged and proved against the petitioner under Sections 279, 337 & 304-A IPC and rightly did not consider it to be a fit case for extending the benefit of Probation of Offenders Act, 1958. The learned Appellate Court has also rightly declined to interfere on the point of sentence.

As such, there is no error of facts as well as law to accept the present revision petition and the same stands dismissed.

(Shekher Dhawan)
Judge

February 26, 2019
“DK”

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No