

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

**CRR No.3874 of 2018 (O&M).
Date of Decision: 08.04.2019.**

Chanan Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. B.D. Sharma, Advocate for the petitioner.

Shekher Dhawan, J.

Present revision petition is directed against the judgment dated 13.10.2018, whereby learned Additional Sessions Judge, Gurdaspur, affirmed the judgment of conviction and order of sentence dated 19.02.2018 passed by Judicial Magistrate Ist Class, Gurdaspur, vide which the petitioner was convicted under Section 304-A of the Indian Penal Code and was sentenced to undergo rigorous imprisonment for a period of two years and fine of Rs.1,000/- and in default of payment of fine to further undergo imprisonment for one month.

2. Facts relevant for the purpose of decision of the present case; that a motor vehicular accident took place on 23.06.2013. Complainant-Lakhwinder Singh reported to the police that he alongwith his father Jagir Singh had gone to Pathankot on his motorcycle. His younger brother Jaswinder Singh (since deceased) met them, who was coming on his

motorcycle. After meeting him, they were going back to their village and his brother was ahead of them on his motorcycle. However, when they reached near Paniar Mill, where road was under construction and all the traffic was going only through one road and brother of the complainant reached near village Rauwal, a bus bearing registration No.PB-02B-9497 was coming from the wrong side at a high speed without blowing any horn, which struck against the motorcycle of Jaswinder Singh, resulting into death of his brother-Jaswinder Singh. The driver of the bus had stopped his bus on the spot and disclosed his name as Chanan Singh (petitioner), but thereafter fled away from the spot alongwith the bus. He was taken to Civil Hospital, Gurdaspur in ambulance, where doctor declared him dead. On the basis of complaint, police started investigation. Petitioner-accused was arrested. The offending vehicle was taken into police possession and after completion of investigation, challan was presented in the Court.

3. During investigation, learned trial Magistrate completed various proceedings of the trial including framing of charge against the petitioner-accused, recording statements of prosecution witnesses, examination of accused under Section 313 Cr.P.C. and after considering the prosecution evidence and defence version held the petitioner guilty and convicted and sentenced him as narrated above.

4. Being aggrieved of the passing of judgment of conviction and order of sentence dated 19.02.2018, the petitioner preferred appeal before the Court of Sessions, but the same was dismissed by learned Additional Sessions Judge, Gurdaspur, vide judgment dated 13.10.2018 and the same are now under challenge before this Court.

5. Learned counsel representing the petitioner contended that learned trial Judge as well as learned appellate Court have not considered the fact that prosecution has not been able to prove the guilt of the petitioner-accused. There is no such material available on the file that accident was caused because of rash and negligent driving of the petitioner. Moreover, there are so many major contradictions and discrepancies in the statements of official witnesses. Both prosecution witnesses, Lakhwinder Singh (PW1) and Jagir Singh (PW2) were actually not present at the spot. Had they been present on the spot, they must have identified the dead body. The identity of the accused was not established during the trial as no test identification parade was conducted. The defence version has been discarded without any reason.

6. Having considered the submissions made by learned counsel for the petitioner and appraisal of record of the case, this Court is of the considered view that prosecution case is based upon the testimony of both the eyewitnesses, namely Lakhwinder Singh (PW1) and Jagir Singh (PW2). They had seen the petitioner-accused on the spot and thereafter, identified the accused in the Court during the trial. Both the witnesses were cross-examined at length and their testimony remained unshaken and unimpeached. Minor contradictions in the statements of these witnesses are bound to come when the statements are recorded after lapse of time. Both the witnesses, while deposing before the Court, cannot be expected to narrate parrot like tutored version, but they were definite on the point that accident had been caused because of rash and negligence driving of the petitioner alone, which resulted into death of Jaswinder Singh. The defence

version, which is just plea of denial, has rightly been discarded by both the Courts below. The complainant as well as eyewitness had no enmity to depose falsely against the petitioner-accused while allowing the real culprit to go scotfree. The medical evidence by way of postmortem report also affirmed the ocular testimony account. As both the Courts below have already scanned the evidence minutely and have already taken a most reasonable view on the point of sentence as well, there is no illegality in the judgment of conviction and order of sentence dated 19.02.2018 recorded by learned trial Court which has been duly affirmed by learned Additional Sessions Judge, Gurdaspur in appeal.

7. In view of the above, the present revision petition, being without any merit, is dismissed.

(SHEKHER DHAWAN)
JUDGE

08.04.2019
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No