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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1513-2019 (O&M)

Date of Decision : July 2nd, 2019

Dharambir

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present : Mr. Paramjit Singh Jammu, Advocate
for the petitioner.

SHEKHER DHAWAN, J.

1. Heard.
2. Notice of motion.
3. Mr. Ramesh Kumar Ambavta, AAG, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State.
4. Present revision petition is directed against the judgment 06.06.2019 passed by learned Additional Sessions Judge, Sirsa, whereby the appeal preferred by the petitioner against the judgment of conviction dated 09.03.2017 and order of sentence dated 17.03.2017 passed by learned Judicial Magistrate Ist Class, Sirsa was dismissed. The learned trial Court convicted and sentenced the petitioner as under:-

Under Section	Sentence
U/s 279 IPC	to undergo Simple Imprisonment for a period of 2 months.
337 IPC	to undergo Simple Imprisonment for a period of 2 months.
338 IPC	to undergo Simple Imprisonment for a period of 2 months.
304-A IPC	to undergo Simple Imprisonment for a period of 12 months.

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All the sentences were ordered to run concurrently.

5. Facts relevant for the purpose of decision of the present case; that on 26.07.2012, complainant Jarman Singh reported to the police that at about 12:30 P.M., Darbara Singh, Baghwant Kaur, Sukhraj Singh, Gurpreet Kaur, Yuvraj Singh and Sukhman Kaur started their journey in car No.HR-44D-5916. At about 1:30 P.M., when they crossed village Khairkan, one Punjab Roadways bus bearing registration No.PW-05R-8854, which was being driven in a rash and negligent manner came from Dabwali side and hit the car from front side and damaged the car. On hearing the noise, passers-by also gathered there. Injured were taken out from the car and were got admitted in the hospital. On the way, Sukhraj Singh, Gurpreet Kaur and Sukhman Kaur succumbed to injuries. After investigation, accused Dharambir, who was driving the offending bus, was arrested. After completion of investigation, challan was presented in the Court.

6. 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.

7. Being aggrieved of the passing of judgment of conviction dated 09.03.2017 and order of sentence dated 17.03.2017, the petitioner preferred appeal before the Court of Sessions, but the same was dismissed by learned Additional Sessions Judge, Sirsa, vide judgment

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dated 06.06.2019 and the same are now under challenge before this Court.

8. At the time of arguments, learned counsel for the petitioner contended that the petitioner has been falsely involved in the case of rash and negligent driving on the part of the petitioner as site-plan suggests that the accident had taken place in the middle of the road and for that petitioner cannot be held responsible for causing the accident. More so, the petitioner has already undergone actual sentence of more than one month against the awarded sentence of one year under Section 304-A IPC. The petitioner has already lost his job as he was working in Punjab Roadways as a driver. So a lenient view be taken and the judgment of conviction and order of sentence passed by learned trial Court and the judgment passed by learned first appellate Court be set aside.

9. Learned State counsel contended that during trial, accused has been held guilty on the basis of statement of PW-4 Jarman Singh, who is complainant in this case, had seen the accident. Apart from that, PW-7 Darshan Singh, injured – eye-witness of the case, has also attributed rash and negligent driving on the part of accused facing trial and there was no dispute regarding identity of the accused. The prosecution case is proved as per law and both the Courts below have already appreciated the evidence and the present revision petition is liable to be dismissed.

10. Having considered the submissions made by learned counsel for the petitioner and appraisal of record, this Court is of the considered view that both the Courts below have already appreciated the entire evidence and rightly placed reliance on the testimony of PW-4, Jarman Singh, who is complainant in this case and his testimony is supported by

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PW-7 - Darshan Singh, injured eye-witness of the case, whose presence on the spot cannot be disputed in any way. Apart from that, presence of petitioner, namely, Dharambir on the spot and his status as driver of Punjab Roadways bus is not disputed as the relevant record was produced during the trial establishing that he was working as driver and he was en-route on the bus in that area only. Against the entire prosecution evidence, the defence is just a plea denial, which does not find any support or corroboration. Learned trial Magistrate has rightly held the petitioner guilty for commission of offence punishable under Sections 279, 337, 338 and 304-A IPC and sentenced him thereunder. Learned first Appellate Court has also dismissed the appeal after considering all these aspects. There is absolutely no ground for interference by way of present revision petition and the same stands dismissed qua judgment of conviction dated 09.03.2017.

11. As regards to the order of sentence, learned trial Judge and learned first Appellate Court have already taken the most reasonable view while awarding sentence of One year under Section 304-A IPC and further any interference on the point of sentence is also not called for.

12. In view of the above, there is no merit in the present revision petition and the same stands dismissed *in toto*.

(SHEKHER DHAWAN)
JUDGE

July 02, 2019
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes