

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

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**CRR No. 4656 of 2017 (O & M)
Date of Decision: 29.1.2019**

Mahajan Singh

.....Petitioner

v.

State of Haryana

.....Respondent

CORAM HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. HPS Aulakh, Advocate, for the petitioner

Mr. R.K. Makkar, Senior DAG, Haryana

RAMENDRA JAIN, J.

Through this revision, the accused/petitioner has laid challenge to the judgment dated 7.11.2017 of the Appellate Court, whereby judgment of conviction of the learned trial Court dated 7.2.2015, holding him guilty under Sections 279, 337 and 304A IPC and order of sentence dated 9.2.2015 sentencing him to undergo rigorous imprisonment for 6 months with fine of Rs.500/-each under Sections 279 and 337 IPC, besides rigorous imprisonment for one year and six months under Section 304A IPC and to pay fine of Rs.1000/-. In default thereof, further undergo simple imprisonment for a period of one month, were upheld.

Briefly stated, on 20.5.2011, two persons namely Satish and Dilpreet Singh died in a motor vehicular accident. Consequently, FIR No. 119 dated 20.5.2011 was registered under Sections 279, 337 and 304A IPC at Police station Kurukshetra University. Investigation was conducted. During investigation, petitioner was found guilty for causing the accident. Therefore,

final report under Section 173(2) Cr.P.C. for commission of offences punishable under Sections 279, 337 and 304A IPC was filed against the petitioner to face trial.

After holding trial, the trial Court held the petitioner guilty and sentenced him in the manner as narrated above in the opening part of the judgment.

Being aggrieved, the petitioner approached the first Appellate Court, but failed as his appeal too was dismissed.

Learned counsel has raised all possible arguments, which can be raised in a road accident case that no identification parade was conducted; identity of the petitioner was disputed; inasmuch as the petitioner was not apprehended at the spot; rather was apprehended after 6 days of the alleged accident; out of four alleged eye witnesses, the prosecution did not examine one witness namely Jayant Ram, which is fatal to the prosecution story; presence of PW-9-Subhash on the spot is doubtful inasmuch as though he had received injury in the accident, but his medico legal report never saw the light of the day; PW2 Hari Ram is also not a truthful witness and has smashed the entire prosecution story by testifying that the impugned accident took place on 20.5.2011, contrary to the prosecution version that it had taken place on 21.5.2011 and that the FIR was registered against unknown persons.

On the other hand, learned State counsel refuting the above arguments contends that test identification parade was conducted by the police in which the petitioner was specifically identified by the eye witnesses. Therefore, identity of the petitioner in committing the accidental death of two persons was established by the prosecution beyond doubt. PW-2 Hari Ram, in his cross examination, clarified that the accident took place on 20.5.2011 and

not on 21.5.2011 as stated by him in his examination in chief. Number of offending car, driven by the petitioner, was noted down by the eye witnesses on the spot. Therefore, from every angle, the prosecution has proved its case beyond shadow of doubt.

Having given thoughtful consideration to the rival submissions, this Court is of the view that the present revision merits dismissal for the reasons to follow :-

(i) No question of law, much less substantial has been raised in this revision. Identity of the petitioner was established by the prosecution beyond reasonable doubt by conducting identification parade. Thereafter, the petitioner was again identified by the prosecution witnesses in Court.

(ii) The petitioner in his statement under Section 313 Cr.P.C. made simple denial in routine of the evidence brought on record against him and opted to lead defence evidence, but did not lead any evidence which requires to draw an adverse inference against him that he did not adopt any such exercise deliberately, knowing it well that he would not succeed in doing so, inasmuch as nobody would favour his false story.

(iii) By this time, it is well settled that statement of witness has to be read as a whole and not in isolation. Since in cross examination of PW-2 Hari Ram has clarified that accident occurred on 20.5.2011 and not on 21.5.2011, therefore, no ambiguity remained in his deposition. Consequently, no benefit of his slip of tongue qua date of accident in examination-in-chief can be given to the petitioner.

(iv) The petitioner cannot be permitted to take advantage of the fact that FIR was registered against unknown persons, inasmuch as the petitioner immediately after causing the accident fled away from the spot, but was

identified by the independent witnesses, while running away. It is a common feature that a person always wants to become doubly sure before lodging FIR about the identity of the culprit. Therefore, the witnesses present on the spot from public must have thought to re-verify the identity of the petitioner, before naming him as accused for committing death of two persons. For that reasons, FIR which was need of the hour was registered against unknown persons.

This Court has very limited powers in revision. The same can only be exercised on following three counts :-

- (i) Whether the Courts below have exercised their powers beyond their jurisdiction;
- (ii) or the same has been exercised illegally; and
- (iii) have not exercised their powers diligently.

Learned counsel for the petitioner has not been able to show any of the infirmities in the impugned judgments.

I have gone through the judgments of the Courts below and find no illegality or perversity in the same.

Dismissed.

(RAMENDRA JAIN)
JUDGE

29.1.2019

Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No