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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-11888-2018 (O&M)
Date of Decision : August 27, 2019

Ranjit Singh alias Rana Petitioner

Versus

State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present : Mr. Avtar Singh Khinda, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. Deputy Advocate General, Punjab
for the respondent-State.

SHEKHER DHAWAN, J.

Present revision petition is directed against the judgment of conviction and order of sentence dated 17.04.2018 passed by learned Judicial Magistrate Ist Class, Phillaur, vide which the petitioner was convicted and sentenced as under:-

Under Section	Sentence	In default
U/s 304-A IPC	Two years and to pay a fine of Rs.1000/-.	15 days.
U/s 427 IPC	One Year.	-
U/s 279 IPC	Six months.	-

All the sentences were ordered to run concurrently.

2. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned Sessions Judge, Jalandhar vide judgment dated 14.12.2018.
3. Facts relevant for the purpose of decision of the present

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revision petition; that on 10.5.2016, complainant Ravi Kumar alongwith his brother were going on separate motorcycles from Goraya to Phillaur. His brother was on motorcycle bearing registration No. PB-08-DD-3214 and he was following him on his motorcycle. At about 5.35 PM, when they reached near village Khaira, a vehicle make Mahindra Pickup bearing registration No. PB-08-1211 (the in-between English alphabets he could not read) came from behind from the side of Goraya in a rash and negligent manner and caused motor vehicular accident. Resultantly, the brother of the complainant, Parshotam Lal, fell down and he suffered fracture of left leg and also received injuries on his head and face. Later on he died. They tried to find out the whereabouts of the accused, but could not succeed. On this, police started investigation. Accused-petitioner was arrested. After completion of investigation proceedings, challan was presented before the trial Court.

4. During trial, learned trial Court completed various proceedings of trial including framing of charge, recording statements of nine prosecution witnesses, including Ravi Kumar, complainant as PW-3 and examination of the accused (petitioner herein) under Section 313 Cr.P.C. After considering the material and evidence available on record, vide judgment dated 17.04.2018, learned trial Court held the petitioner guilty and convicted and sentenced him as detailed in para No.1 above.

5. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned first appellate Court vide judgment dated 14.12.2018. Hence, this revision petition before this Court.

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6. Learned counsel for the petitioner contended that the judgment of conviction and order of sentence recorded by learned Magistrate as well as learned Appellate Court are liable to be set-aside because both the Courts below have not considered and appreciated evidence in its true perspective. In fact, the prosecution has relied upon the testimony of PW-1, Amarjit, PW-2, Rampal and PW-3, Ravi Kumar, complainant of this case, but if the testimony of these witnesses are taken into consideration, there is nothing on record to connect the present petitioner in the motor vehicular accident in this case. PW-1 and PW-2 have categorically stated that they were not present at the time of accident and that they were informed about the said accident by Ravi Kumar, complainant on phone. Even PW-3, Ravi Kumar, complainant of this case has clearly stated that they tried to find out the whereabouts of the accused and later on, they came to know about the name of the accused as Ranjit Singh. Therefore, as the prosecution case has no legs to stand, the judgment of conviction and order of sentence recorded by the Courts below deserve to be set-aside and the petitioner may be acquitted of the charge.

7. Learned State counsel contended that the Courts below have already appreciated the evidence available on record and the present revision petition deserves to be dismissed.

8. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that the material witnesses have not supported the prosecution case. The prosecution case was mainly based on the testimony of PW-1, Amarjit, PW-2, Rampal and PW-3, Ravi Kumar, complainant of this case. As per

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testimony of PW-1, Amarjit is concerned, he has not seen the accident, rather he was informed by Ravi Kumar, complainant on phone and as such, he was not in a position to identify the accused and to say something about the rash and negligent driving of the offending Pickup resulting into causing of injuries and death of Parshotam Lal. Similar is the deposition of PW-2, Rampal, who has also not seen the accident, rather he was informed by Ravi Kumar on phone.

9 Prosecution has mainly relied upon the testimony of PW-3, Ravi Kumar, and if his testimony, which includes his cross-examination as well, is examined, the same does not make out a case that he had seen the accident with his own eyes and he had not seen the accused on the spot. Thereafter, there was no 'Test Identification Parade' of the accused and even during trial, he has not been able to identify the accused person and to say that the accident was caused by the person facing the trial. He was unable to note-down complete number of the offending vehicle as well. As per PW-3, the accident resulted into fracture of left leg and caused head injuries to his brother and he died on the spot. PW-3, Ravi Kumar had not seen the accused on the spot and they tried to find out the whereabouts of the accused. Subsequently, in the cross-examination, he had taken a clear-cut stand that he was unable to identify the accused at the place of occurrence and thereafter in the Court. As such, the testimony of all these witnesses do not implicate the present accused for having caused rash and negligent driving resulting into causing of injuries or death of Parshotam Lal, brother of the complainant. In the light of that, the testimony of remaining witnesses more or less becomes formal in nature

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because in such like cases, rash and negligent driving resulting into injuries and death of some human being is the first and foremost ingredient required to be proved, but that has not been established in this case and both the Courts below have not considered these material aspects of the case which resulted into miscarriage of justice. Apart from that, there was no material evidence available on the file so as to come to the conclusion that because of his rash and negligent driving of the petitioner, the motor vehicular accident took place.

10. In view of the above, the present Revision Petition is accepted and the impugned judgment of conviction and order of sentence dated 17.04.2018 passed by learned Judicial Magistrate Ist Class, Phillaur and judgment dated 14.12.2018 passed by learned Sessions Judge, Jalandhar are set-aside. Resultantly, the petitioner is acquitted of the charge in this case and he be set at liberty forthwith, if not required in any other case.

11. The present revision petition stands allowed in the above terms.

(SHEKHER DHAWAN)
JUDGE

August 27, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes