IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.3395-2019(O&M)
Date of Order: December 16, 2019

Sumit Kumar **..Petitioner**

Versus

State of Punjab **..Respondent**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mohan Singh Chauhan, Advocate
for the petitioner.

ANIL KSHETARPAL, J.

Revision petition has been filed against the judgment of conviction under Sections 279 and 304-A of the Indian Penal Code, passed by learned Sub Divisional Judicial Magistrate, Kharar, confirmed in appeal by the Court of Sessions.

Sentence awarded by the learned Sub Divisional Judicial Magistrate, Kharar, has been reduced to rigorous imprisonment for a period of one year. The substantive part of the sentence awarded by the Court of Sessions is extracted as under:-

Under Section 289 of Indian Penal Code	*Rigorous imprisonment for three months*
Under Section 304-A of Indian Penal Code	*Rigorous imprisonment for one year along with fine of Rs.500/- (Rupees Five Hundred only) and in default of payment of fine to further undergo rigorous imprisonment for 7 days.*

In nut shell, the case set up by the prosecution is that on 28.05.2017, at about 5:00 AM when the first informant along with his father were going to Shivjot Enclave on a separate scooters, his father was hit by a heavy commercial vehicle which had come from the rear side, being driven rash and negligently by the petitioner, resulting in the death of his father.

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The offending vehicle stopped after going a little ahead and the driver disclosed his name as Sumit Kumar, but when the people gathered he slipped away.

The prosecution, in order to prove its case examined PW1 Head Constable Surjit Singh, the Investigating Officer. Hardev Singh was examined as PW2, a mechanic, who had produced mechanical report of the scooter and the offending vehicle (truck). Gurvir Singh @ Lali-first informant was examined as PW3. Arvind Kumar was examined as PW4, Kuldeep Singh was examined as PW5, who had identified the corpse of the deceased. Puran Kumar was examined as PW6, whereas Gurdev Singh was examined as PW7.

Statement of the accused was recorded under Section 313 Cr.P.C. and the petitioner was confronted with the incriminating evidence, however, he pleaded innocence and false implication in this case.

Learned counsel for the petitioner has submitted while referring to the statement of first informant Gurvir Singh @ Lali that the deposition of Gurvir Singh @ Lali is not believable as he and his deceased father were to go to the same place but they claim to be travelling on separate scooters which is not probable. He further while drawing attention of the Court to mechanical report of the scooter and the truck, has submitted that no accident has taken placed with the truck because there is no damage to the truck.

This court has considered the submissions of learned counsel for the petitioner and with his able assistance gone through the judgments passed by the courts below and various documents produced by the petitioner.

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As regards first argument of learned counsel for the petitioner, it may be noticed that it cannot be universally stated that if father and son have to go from one place to another at the same time, they must necessarily travel in the same vehicle. It would always depends upon the facts and circumstances as well as personal perception of individuals. Hence, there is no force in the first submission of learned counsel for the petitioner.

As regards second argument of learned counsel for the petitioner, it may be noticed that as per the case of the prosecution, petitioner was driving his truck (a heavy commercial vehicle) at high speed in a rash and negligent manner and knock down the scooter driven by the deceased while coming from behind, resulting in death of father of the first informant. In these circumstances, it is not necessary that a heavy commercial vehicle would necessarily receive some damage. However, perusal of mechanical report suggest that there was minor scratch on body of the truck between front and rear wheel towards left side of the truck and there was another mark of scratch on the rear wheel. First informant has appeared as PW3 and his deposition in examination-in-chief could not be shaken by the learned counsel for the defence. Thus, deposition of PW3 is in consonance with the case of the prosecution.

Keeping in view the aforesaid facts, this court is not inclined to interfere with the judgment of conviction which has been upheld in appeal.

Hence, dismissed.

December 16, 2019 **(ANIL KSHETARPAL)**
nt **JUDGE**

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

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