

CRR-164 of 2019

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

CRR-164 of 2019
Date of Decision: 26.02.2020

Gursewak Singh

...Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Sukhdeep Singh Bhinder, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, accused has laid challenge to judgment dated 21.11.2018 of the lower appellate Court, affirming judgment of conviction and order of sentence dated 14.02.2017 holding petitioner guilty under Section 304-A IPC and sentencing him to undergo rigorous imprisonment for two years and pay fine of Rs.5,000/-. In default thereof, to further undergo rigorous imprisonment for one month.

Briefly, petitioner was booked, tried, held guilty and sentenced in the manner as narrated above by the trial Court vide judgment of conviction and order of sentence dated 14.02.2017 on the allegations that in the intervening night of 12/13.02.2013, petitioner driving his tractor trolley in a rash and negligent manner and also without any reflector/dipper on the rear portion, caused accidental death of Dr. Alok, who was going behind in his car bearing registration No.HR-51AF/0747 near the bus stand of Rode College on Moga-Kotkapura road.

CRR-164 of 2019

Being aggrieved, petitioner approached the lower appellate Court, but remained unsuccessful as his appeal too was dismissed vide judgment dated 14.02.2017, upholding the aforesaid judgment and order of the trial Court.

Learned counsel for the petitioner relying upon *State through Central Bureau of Investigation, Anti Corruption Branch, Chandigarh v. Sanjiv Bhalla and another*, (2015) 13 Supreme Court Cases 444 (S.C.) and *Nishan Singh and others v. Oriental Insurance Company Ltd. through Regional Manager and others* 2018(2) RCR (Civil) 891 (S.C.), inter alia contends that it was the deceased who was responsible for his death on account of his own negligence as he was not maintaining proper distance in between the tractor trolley driven by the petitioner ahead of him. Petitioner has been acquitted under Section 279 IPC by the trial Court on account of failure of the prosecution to prove his alleged rash driving of tractor trolley. Taking a lenient view, petitioner may be released on probation.

Refuting above submissions, learned State counsel, pleading legality and validity of the judgments of both the Courts below and order of sentence of the trial Court, submitted that tractor trolley driven by the petitioner was without any indicator or reflector on the rear portion. Tailgate of the trolley was also let loose by the petitioner, which resultantly struck against the car of deceased Dr. Alok going behind, resulting into his death.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

CRR-164 of 2019

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmities in the judgments of both the Courts below.

Petitioner was very much identified by PW3 complainant Harwinder Singh in Court as a culprit for causing the accident in question, which brutally snatched away the life of a human being, Dr. Alok. This witness specifically testified in the Court that on account of letting loose tailgate of his tractor trolley by the petitioner, same struck against the car of the deceased, when he was trying to overtake the tractor trolley driven by the petitioner. After causing the accident, petitioner dragged the car for half a kilometer, which fact in itself is sufficient to draw a definite inference against the petitioner that he was driving his tractor trolley in a negligent manner inasmuch as otherwise he could stop it, immediately after the accident.

Complainant PW3 Harwinder Singh further specifically testified that there was no reflector on the tractor trolley of the petitioner. Thus, it was very difficult for anyone to pre-suppose dimensions of a tractor trolley before overtaking.

Testimony of PW3 Harwinder Singh was duly corroborated by PW1 Hans Raj, who mechanically examined both the accidental vehicles i.e. tractor trolley of the petitioner and car of the deceased. According to his mechanical report (Ex.PW1/B) tractor trolley was not having any light on

CRR-164 of 2019

the backside and its tailgate was lying open. Driving of his tractor trolley by the petitioner without any reflector on its rear side in itself was an invitation to an accident by third person. PW1 Hans Raj found the channel of the tailgate of the trolley of the petitioner bent and front portion of the car badly damaged.

I have no dispute with the aforesaid judgments referred to by learned counsel for the petitioner, but with due respect, it is pointed out that discretion has been given to the Courts in the matter of grant of probation to a convict under Section 304-A IPC. In the instant case, petitioner has caused untimely death of a qualified doctor by driving his tractor trolley in a negligent manner, thus, this Court is not inclined to grant benefit of probation to the petitioner.

Dismissed.

February 26, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No