

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-748-2020 (O&M)
Date of Decision:-16.11.2021

Jagdev Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Shranav Katyal, Advocate for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner assails judgment dated 16.11.2019 passed by learned Sessions Judge, Patiala vide which his appeal challenging his conviction as recorded by learned Judicial Magistrate 1st Class, Rajpura vide his judgment dated 13.2.2019, has been dismissed.
2. The FIR in question i.e. FIR No.80 dated 15.8.2011 at Police Station Shambu under Sections 279 and 304-A of Indian Penal Code was lodged at the instance of Amit Kumar, wherein it is alleged that on 15.8.2011 while he alongwith his wife Poonam Rani and daughter Shiya Rani was travelling in a private bus run by Patiala Bus Highways Company bearing registration No.PB-10X-8025 in order to go to Ambala, the driver of the said bus was driving the bus in a rash and negligent manner. It is alleged that the driver of

the bus attempted to pass his bus in between two canter going ahead of the bus and in the process struck into a canter as a result of which Poonam Rani sustained multiple injuries on various parts of her body and died at the spot.

3. The matter was investigated by the police and upon conclusion of investigation challan was presented against the petitioner for offences under Sections 279 and 304-A of Indian Penal Code. The prosecution, in order to establish its case, examined PW-1-HC Gurmukh Singh. The complainant Amit Kumar stepped into the witness box as PW-2. The prosecution also examined PW-3-Krishan Lal. PW-4-Dr. Sugam Sharma also stepped into the witness box and proved the post-mortem examination of deceased. Apart from the said witnesses some other witnesses i.e. PW-5-Ravinder Singh, PW-6-Pawan Kumar, Clerk, DTO Office, Sangrur, PW-7-Baljinder Singh, Steno-Typist, RTA, Ludhiana and PW-8-Avtar Singh, Photographer were also examined. The statement of the accused was recorded in terms of Section 313 Cr.P.C. so as to enable him to explain the circumstances appearing against him, wherein he simply pleaded innocence and his false implication.
4. The Trial Court, upon appraisal of the evidence on record, held that the accused was negligent in driving the vehicle and that complainant's wife Poonam Rani had lost her life on account of the rash and negligent driving of the petitioner and consequently held him guilty for having committed offences punishable under Sections 304-A and 279 of Indian Penal Code and sentenced him to undergo rigorous imprisonment for 2 years and also imposed a fine of ₹5,000/- under Section 304-A of Indian Penal Code and a fine of another ₹1,000/- for offence under Section 279 of Indian Penal Code

vide judgment dated 13.2.2019 passed by learned Judicial Magistrate 1st Class, Rajpura.

5. The petitioner challenged the aforesaid judgment by way of filing an appeal in the Court of learned Sessions Judge, Patiala but the same also came to be dismissed vide judgment dated 16.11.2019 and the impugned judgment of learned Judicial Magistrate 1st Class, Rajpura was upheld.
6. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that there is no convincing evidence to establish the alleged occurrence and that it is based mainly on the self serving statement of the complainant. Learned counsel has further submitted that although the driver of canter i.e. PW-5-Ravinder Singh was also examined but he did not identify the driver of the bus in question. It has further been submitted that the case of prosecution would also suffer from a serious infirmity inasmuch as even the Investigating Officer has not been examined.
7. I have considered the aforesaid submissions.
8. In the instant case, the complainant was sitting in the bus itself, which the petitioner was driving and, in these circumstances, it cannot be said that he had not seen the bus driver or that he could not identify the bus driver in question. When the complainant i.e. PW-2-Amit Kumar had stepped into the witness box, nothing was put to him during his cross-examination so as to assail his assertions as regards identification of the petitioner. Still further, it is nowhere the case of the petitioner that he was not employed as a driver with Patiala Bus Highways Company. In these circumstances, the contention of the petitioner regarding identification cannot be accepted.

9. As regards the non-examination of the Investigating Officer is concerned, there is no such hard and fast rule that in every case the Investigating Officer is required to be examined. It is only if certain material investigation, which connects the accused with the alleged occurrence, has been conducted and which is not proved that the absence of Investigating Officer would be significant. In the instant case, the ocular version as set forth by the complainant, who was sitting in the bus itself, which was being driven by the petitioner, coupled with the medical evidence and other evidence would clearly nail the guilt of the petitioner. The Trial Court as well as the Lower Appellate Court have scrutinized the evidence minutely and have thereafter reached at the conclusion regarding guilt of the accused. This Court does not find any infirmity in the said findings and consequently the conviction of the petitioner is upheld.
10. As far as the quantum of sentence is concerned, there is some room for reduction in sentence particularly keeping in view the fact that the petitioner is not stated to be a previous convict. As per custody certificate, the petitioner is stated to have undergone 1 year, 3 months and 3 days out of the imposed sentence of 2 years. As such, the sentence of imprisonment of 2 years as imposed by the Trial Court and as upheld by the Lower Appellate Court is reduced from 2 years to the one already undergone. The fine shall, however, remain unaltered.
11. The revision petition stands disposed off accordingly except for the modification in sentence as indicated above.

16.11.2021

pankaj

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No

**(Gurvinder Singh Gill)
Judge**