

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-852-2021

DATE OF DECISION: NOVEMBER 23, 2021

JAGTAR SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. HP.S. RAKHRA, ADVOCATE FOR THE PETITIONER.
MR. RAMANDEEP SINGH SANDHU, SR.DAG, PUNJAB.

MANOJ BAJAJ, J.(ORAL)

The petitioner has preferred this criminal revision petition challenging the Appellate Court judgment dated 27.7.2021, passed by the learned Addl. Sessions Judge, Mohali, whereby the Criminal Appeal No.RT-39 dated 28.11.2017, against the judgment of conviction dated 28.10.2017, passed by the Judicial Magistrate 1st Class, Mohali in case FIR No.141 dated 22.7.2015, under Sectioni 279, 337, 304-A, 427, IPC, Police Station Phase 1, Mohali, was dismissed and the order of sentence dated 28.10.2017, imposed by the trial Court was modified only to the limited extent of reducing the sentence under Section 304-A IPC to one year.

The facts leading to the revision petition are noticed below.

On 22.7.2015, at about 5.15 p.m., Daljeet Singh and Harinder Singh Dhindsa after finishing off their office left for their home on the motorcycle bearing Registration No.PB-65-AC-6647. At about 5.40 p.m., when they were just 100 sq.yards away from Dara Studio Chowk, one vehicle bearing registration No.PB-10-DZ-4842, being driven in a very high

speed came from behind without blowing any horn and hit the motorcycle from behind, and consequently Daljeet Singh fell on the road whereas, Harinder Singh alongwith the motorcycle was dragged by the aforesaid Canter to a distance. In the accident, Daljeet Singh received multiple injuries whereas, Harinder Singh died on the spot and the motorcycle was also damaged. Taking advantage of the crowd gathered over there, the driver of the Canter fled away from the spot. On the basis of said statement, FIR was registered.

After completion of investigation, final report under Section 173 Cr.P.C. was filed before the trial Court, and upon consideration, charges were framed against the accused/petitioner who pleaded not guilty and claimed trial. In order to discharge the onus, the prosecution examined eleven witnesses. Thereafter, statement of accused was recorded under Section 313 Cr.P.C. who pleaded false implication, however, no evidence was led by him in his defence.

The trial Court after examining the evidence on record found the accused guilty for commission of offences punishable under Section 279, 304A, 337 IPC and accordingly, he was convicted and following sentences were imposed upon him:

Section	Sentence awarded
279 IPC	Simple Imprisonment for 6 months alongwith fine of ₹1000/- and in default of payment of fine, to undergo further period of Simple Imprisonment for 7 days.
304-A IPC	Simple Imprisonment for 2 years alongwith fine of ₹8500/- and in default of payment of fine, to undergo further period of Simple Imprisonment for one month.
337 IPC	Simple Imprisonment for 6 months alongwith fine of ₹500/- and in default of payment of fine, to undergo further period of Simple Imprisonment for 7 days.

Aggrieved against the said judgement of conviction and order of sentence dated 28.11.2017, passed by the trial Court, an appeal was filed by the convict before the Addl. Sessions Judge, SAS Nagar, Mohali, who vide impugned judgement dated 27.7.2021, dismissed the appeal and affirmed the trial Court verdict. However, the sentence inflicted upon the petitioner under Section 304-A was reduced to simple imprisonment for one year, and rest of the sentence part was maintained.

Dissatisfied with the appellate Court judgement, the convict has preferred this revision petition.

Learned counsel for the petitioner has argued that the alleged accident took place at around 5.40 p.m. and the traffic at that time was at its peak, therefore, there was no occasion for the petitioner to drive the alleged offending vehicle rashly and negligently. He submits that the accident took place just before the roundabout and the traffic was already slow and it was the fault of the motorcycle driver who turned his motorcycle on the left side, therefore, the petitioner's vehicle struck the motorcycle from behind. He has further referred to the testimony of Hardev Singh Longia (PW5) who had examined the motorcycle bearing registration No.PB-65-AC-6647 and the offending vehicle Canter bearing registration No.PB-10-DZ-4842 and gave his mechanical report Ex.P5/A and Ex.P5/B, respectively.

Learned counsel submits that the rim with tyres of the motorcycle were intact and not damaged, therefore, the impact does not suggest rash and negligent driving on the part of the petitioner. According to him, the case of the prosecution suffers from material defects therefore, benefit of doubt deserves to be extended to the petitioner and the impugned

judgement of conviction warrants interference.

After hearing the learned counsel and considering the case file carefully, this Court finds that the prosecution case has been proved by PW2 Daljit Singh who was a pillion rider with driver Harinder Singh (deceased) in the said accident. He has clearly stated that the offending vehicle was driven by the petitioner and when he struck the motorcycle from behind, he fell on the ground whereas, the driver of the motorcycle alongwith the motorcycle was dragged upto 20 feet, who also suffered injuries and had identified the petitioner. The argument of the learned counsel that the driver of the motorcycle was at fault who suddenly came in front of the truck does not seem to be probable, considering the site plan wherein point 'A' is the place where the accident took place on a one way road. Further the stand of the learned counsel that at the time of the accident, there was lot of traffic and the petitioner was not driving the vehicle rashly and negligently is also without any merit as the speed of the offending vehicle does not define rashness and negligence on the part of the driver. It is the due care which was required to be taken at that time by the driver is to be seen which is missing in the present case as it was for him to be careful to control the speed of his vehicle in order to avoid the impact. Further, the evidence of PW5 indicates that the rear tail lamp of the motorcycle was broken and the vehicle was also bent.

A perusal of the impugned judgement of conviction passed by the trial Court and upheld by the appellate Court reveals that the entire material evidence of the parties has been considered carefully before holding the petitioner guilty. The findings of the trial Court as well as the appellate Court are based on correct appreciation of evidence on record which shows

that the prosecution has proved the case beyond reasonable doubt.

Resultantly, no ground is made out for exercise of revisional jurisdiction.

Petition is dismissed.

November 23, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No