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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-689-2022 (O&M)
Date of decision : 04.05.2022

Atma Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gagan Bajaj, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Challenge in the present Criminal Revision is to the judgment dated 11.06.2018 passed by the Additional Chief Judicial Magistrate, Faridkot, vide which the petitioner has been convicted under Sections 279, 337 and 338 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) and has been sentenced as under:-

“Convict is sentenced as follows:

<i>Name of the accused/convict</i>	<i>Offence U/s</i>	<i>Sentence</i>
Atma Singh	279 IPC	To undergo rigorous imprisonment for six months.
-do-	337 IPC	To undergo rigorous imprisonment for six months.
-do-	338 IPC	To undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default of payment of fine to undergo imprisonment for ten days.

All the sentence shall run concurrently. The period of detention already undergone by the convict be set off

against the substantive sentence.”

Challenge has also been made to the judgment dated 07.03.2022 passed by the Additional Sessions Judge-I, Faridkot, vide which, the appeal preferred by the petitioner has also been dismissed.

Learned counsel for the petitioner has submitted that in the present case, the injury on the head of Bhure Lal has not been proved inasmuch as no operation was performed on the said Bhure Lal and the said Bhure Lal was discharged on 06.08.2015 after having been admitted in PGIMER Chandigarh on 04.08.2015 and it is thus, submitted that conviction of the present petitioner is illegal, against law and the same deserves to be set aside.

This Court has heard the learned counsel for the petitioner and has perused the paper book.

The brief facts of the present case are that on 04.08.2015, a medical ruqa regarding admission of Bhure Lal son of Ram Singh at GGS Medical College & Hospital, Faridkot due to road side accident was received in the Police Station and on receipt of the same, ASI Baljit Singh along with other police officials went to the Medical Hospital, Faridkot where the Medical Officer informed the police officials that due to head injury, the injured person was referred to PGI, Chandigarh. On 05.08.2015, ASI Baljit Singh along with other police officials went to the house of Bhure Lal and there, Satvir Singh, brother of Bhure Lal met the police and informed the police officials that he had come from PGI, Chandigarh and his brother Bhure Lal, on account of the head injury, was unable to speak and accordingly, Satvir Singh got his statement recorded before the police

officials to the effect that on 04.08.2015, his brother Bhure Lal was going on his cart for cutting fodder near the Dargah of Baba Rode Shah Ji and he (brother of injured) was following him on his bicycle and at about 08:30 A.M, from the side of Faridkot, one PRTC bus bearing registration No. PB03-Q-9024 came, which was being driven by its driver in a very rash and negligent manner at a very high speed and the same struck and hit the cart of his brother Bhure Lal from behind and due to the same, cart got stuck into the front bumper of the bus and the bus dragged the cart for a long distance and on account of the said accident, his brother Bhure Lal received injury on the head and other parts of the body and became unconscious at the spot and he alongwith his friend Ram Singh, after arranging a vehicle, got his brother admitted at GGS Medical College & Hospital, Faridkot from where, on account of the head injury, the injured was referred to PGI, Chandigarh. It was alleged that the accident had taken place due to the rash and negligent driving of the driver of the bus who after investigation, was found to be the present petitioner. Charges were framed in the present case.

In order to prove its case, the prosecution has examined as many as 11 witnesses, which are enumerated hereasunder:-

- 1) PW1-Dr. Komal Maini,
- 2) PW2-Satvir Singh, complainant (PW1/A),
- 3) PW2-Bhure Lal,
- 4) PW4-HC Gurdit Singh,
- 5) PW5-Sukhdev Singh,
- 6) PW6-ASI Baljit Singh,
- 7) PW7-Harivansh, Data Entry Operator, RTA Office, Faridkot,

- 8) PW8-HC Subhash Kumar,
- 9) PW9-Dr. Ajusman Chattarpati,
- 10) PW10-Dr. Pushpinder Singh Kuka,
- 11) PW11-Dr. Prem Kumar

The trial Court, after considering the evidence of the complainant-PW1/A-Satvir Singh as well as PW2-Bhure Lal and also the evidence of the Doctors, came to an affirmative conclusion that it was the present petitioner who was driving the bus in question and the injuries including the head injury which had been caused to the brother of the complainant i.e. PW2-Bhure Lal, was on account of the said accident. Specific reference was made to the evidence of PW10-Dr. Pushpinder Singh Kuka, who had proved on record that he had given first aid to the injured and had referred the brother of the complainant to PGIMER, Chandigarh. Reference was also made to the evidence of PW9-Dr. Ajusman Chattarpati, who had stated that the patient received head injury and the said head injury was dangerous to life and had proved on record medico-legal case summary as Ex.P9/A. It was further stated by him that the injury was declared dangerous to life after receiving CT Scan report. The evidence of PW11-Dr. Prem Kumar was also taken into consideration and it is the said PW11, who was the Junior Resident in Radiologist Department and who had stated that he had seen x-ray report dated 04.08.2015 on the judicial file and the said report was Ex.PW11/A. PW6-ASI Baljit Singh had proved on record the medical ruqa Ex.PW1/A and other documents including driving licence Ex.PW4/7 and photocopy of RC as Ex.PW4/10.

The trial Court, thus, after considering the entire evidence on

record, convicted the petitioner under Sections 279, 337 and 338 of the IPC and sentenced him as stated hereinabove.

The Appellate Court, after reconsidering the entire matter as well as the medical evidence on record, upheld the said judgment and affirmed the sentence passed by the learned trial Court.

Both the Courts below have duly considered the entire evidence including the medical evidence on record. Learned counsel for the petitioner has not been able to point out any infirmity, illegality or perversity in the said finding of both the Courts below.

With respect to the sole argument raised by the learned counsel for the petitioner, it would be relevant to note that as has been observed in both the said judgments, PW9-Dr. Ajusman Chattarpati has been examined and the relevant portion of his evidence is reproduced hereinbelow:-

“PW9

*Statement of Dr. Ajusman Chattarpati, PGI Hospital,
Chandigarh*

On SA

Stated that I treated patient Bhure Lal son of Ram Singh and he was discharged on 04.08.2015. Patient received head injury and later on, said head injury was declared dangerous to life. My medico-legal case summary is Ex.P9/A which bears my signatures.”

A perusal of the said evidence would show that PW9 had stated that the patient had received head injury and later on, the said head injury was declared dangerous to life. Further PW11-Dr. Prem Kumar, Senior Residence, Department Radiologist, PGIMER, Chandigarh was also examined and relevant portion of his examination is reproduced

hereinbelow:-

“PW11

*Statement of Dr. Prem Kumar, Sr. Residence,
Department Radiologist, PGIMER, Chandigarh*

On SA

Stated that Dr. Aparna Parkash was working in our hospital PGIMER, Chandigarh she was junior resident in Radiologist department. She worked with me. Today, I have seen the X-ray report dated 04.08.2015 on the judicial file shown to me I identify the signature of Dr. Aparna Parkash and report is Ex.PW11/A now she is not working in our hospital. Today I have brought the original report.”

A perusal of the above statement would show that the said witness had proved the x-ray report dated 04.08.2015. Even PW10-Dr. Pushpinder Singh Kuka, Resident Department of Surgery, GGS Medical College & Hospital, Faridkot, has also been examined and the relevant portion of his evidence is reproduced hereinbelow:-

“PW10

*Statement of Dr. Pushpinder Singh Kuka, Resident
Department of Surgery, GGS Medical College & Hospital,
Faridkot*

On SA

On dated 04.08.2015, I was posted at department of Surgery, GGS medical College & Hospital, Faridkot. On that day patient Bhura Lal was brought to emergency department with head injury. Patient was given first aid and referred to PGI MER, Chandigarh and IO moved application before me which is Ex.PW6/A and I made endorsement on the application regarding the referral of the patient which is Ex.PW6/B which bears my signature.”

Dr. Ajusman Chattarpati, who has been examined as PW9, has proved on record the medico-legal case summary as Ex.PW9/A. Further, said PW11 has proved on record the x-ray report dated 04.08.2015. The said witnesses have proved that there was an injury on the head and that there were other injuries suffered by the injured-Bhure Lal. In addition to the above, PW1/A-complainant who was the eye-witness, had specifically stated that the petitioner had received injuries on the head and on the body. Learned counsel for the petitioner has not raised any argument so as to cause a dent on the evidence of the abovesaid witnesses. Even no document has been referred to, to show that there is any perversity in the orders passed by the Courts below.

With respect to no operation having been performed, it would be relevant to note that specific query was put to the learned counsel for the petitioner as to whether any such argument has been raised before the Courts below or any such suggestion has been given to any of the Doctor or any other witness, to which, learned counsel for the petitioner has very fairly submitted that no such argument has been raised in the Courts below nor any such suggestion has been given. Even, the medical record has not been produced on record of the present petition. Be that as it may, from the evidence on record, it is clearly proved that on account of rash and negligent driving of the petitioner, several injuries including the head injury, have been caused to the brother of the complainant and thus, both the Courts below have rightly come to the conclusion that the petitioner is guilty of the offences as mentioned hereinabove.

Since, there is no perversity in the judgments passed by both

the Courts below, thus, the present Criminal Revision is dismissed.

Since, the main case has been decided, application bearing CRM-13808-2022 for suspension of sentence of applicant-petitioner is rendered infructuous and is disposed of as such.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

04.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No