

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2237 of 2022 (O&M)
Date of Decision:13.12.2022

Jogender

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Munish Kumar Garg, Advocate,
for the petitioner.

Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana

JASGURPREET SINGH PURI, J.

The present revision petition has been filed challenging the judgment dated 15.05.2017 and order of sentence dated 16.05.2017 passed by the Judicial Magistrate Ist Class, Jind in a criminal case whereby the petitioner has been convicted for the offence punishable under Section 279 IPC and to undergo simple imprisonment for 6 months alongwith payment of fine of Rs.1000/- and also convicted for the offence punishable under Section 304-A IPC and to undergo simple imprisonment for 1 year as also the judgment passed by the learned Sessions Judge, Jind by which the appeal was dismissed on 28.09.2022 affirming the findings of the learned JMIC, Jind.

An FIR was lodged under Sections 279 and 304-A IPC at Police Station City Jind on the basis of a complaint filed by the complainant that the name of his elder son is Krishan, who is stated to be 14-15 years old and

studying in Jaat School. On 01.07.2014 at about 07:30 AM, when the complainant dropped his son on a cut in front of the Jaat School and while his son Krishan was crossing the road, then a truck bearing registration No. HR-56-8521 came from the side of Jind City in a rash and negligent manner, as a result of which his son was hit and after collision, the truck dragged his son for about 10-15 meters. Thereafter, the passersby came there and stopped the truck and his son namely Krishan died on the spot due to the injuries sustained by him. The school staff also came on the spot and caught the petitioner.

Before the learned trial Court, the prosecution examined HC Surender as PW1, Rajesh as PW2, Vinod as PW3, ASI Bijender as PW4, Vijay as PW5, Dr. Arvind Kumar as PW6, EHC Subhash Chander as PW7, P/SI Surender Singh as PW8, Ramesh as PW9 and Harish Kumar as PW10. After the prosecution evidence was closed, the statement of the petitioner under Section 313 of the Code of Criminal Procedure was recorded and in his statement, he bluntly denied the allegations and has stated that he has been falsely implicated in the present case. However, no defence evidence was led by him and the same was closed by his counsel by his separate statement.

The learned trial Court after considering the prosecution evidence especially the evidence of the eye witnesses who narrated the said incident in detail and even PW5 who was a teacher of the school had identified the petitioner in the Court, convicted the petitioner and sentenced him. The learned trial Court came to the conclusion that all the prosecution witnesses have supported the version of each other and PW5 who was the school teacher had supported and corroborated the prosecution version while identifying the accused who was present in the Court and was driving the truck on the day of

the accident. The learned trial Court further came to the conclusion that as per the prosecution witnesses, the petitioner was driving the truck at about 50 km per hour and the cut for crossing the road was in front of the school where the accident had taken place and therefore even the speed of 50 km per hour was dangerous. The driver of the truck who is the petitioner should have driven the truck with due care and caution and should not have driven in such a high speed outside the school. Apart from the above, the petitioner did not apply the brakes and dragged away the deceased for about 10-15 meters. The learned trial Court further observed that the accused was caught by several passersby and school teachers and handed over to the police. It was further observed that even in the statement under Section 313 of the Code of Criminal Procedure, there was only a blunt denial to the allegations made by the accused without taking any defence since no defence evidence was led by him.

An appeal was filed before the learned Sessions Judge/Appellate Court and the learned Appellate Court also appreciated the entire evidence and dismissed the appeal filed by the petitioner.

Learned counsel for the petitioner submitted that the complainant was the father of the deceased although examined in-chief but did not come forward for cross-examination and therefore the prosecution was not able to prove its case beyond reasonable doubt. He further submitted that the petitioner was only identified by the ID and even the site plan was defective and therefore the prosecution was not able to prove its case beyond reasonable doubt.

On the other hand, Mr. Ranvir Singh Arya, learned Additional Advocate General, Haryana has submitted that it is a case where the petitioner was caught on the spot and the eye witnesses have already supported the

prosecution version including PW5 who was the teacher in the school and gave the entire description of the incident. The petitioner was immediately handed over to the police. He submitted that the complainant himself was examined in-chief but did not come for his cross-examination but it does not mean that the prosecution was not able to prove its case beyond reasonable doubt in view of the fact that other prosecution witnesses have fully supported the prosecution version. He further submitted that the mechanical report of the truck would also suggest that the accident had taken place and the petitioner was caught on the spot and handed over to the police and therefore the present criminal revision petition may be dismissed.

I have heard the learned counsel for the parties.

It is a case where the petitioner has been sentenced and convicted for the offence punishable under Section 279 IPC and to undergo simple imprisonment for 6 months alongwith payment of fine of Rs.1000/- and also convicted for the offence punishable under Section 304-A IPC and to undergo simple imprisonment for 1 year. The prosecution led detailed evidence including the statements of eye witnesses and the petitioner was caught on the spot by the school teachers and the persons present there and handed over to the police. The petitioner did not lead any defence evidence and in the statement recorded under Section 313 of the Code of Criminal Procedure, he had only denied the allegations made against him. Both the learned Courts below have discussed the evidence in detail.

After hearing the learned counsels for the parties and perusing the record, this Court does not find any illegality or perversity in the judgment passed by the learned JMIC, Jind and as upheld by the learned Sessions Judge,

Jind.

The argument raised by learned counsel for the petitioner that the complainant although came for examination-in-chief but not in cross-examination cannot be fatal to the prosecution case in view of the other cogent evidence which has been led by the prosecution. The scope of Revision Peition is limited. No perversity or illegality has been found in the impugned judgments. Therefore, the present petition is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

December 13, 2022
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No