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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-1764-2018 (O&M)
DECIDED ON: 23rd NOVEMBER, 2022

KULWINDER SINGH

PETITIONER

VERSUS

STATE OF PUNJAB

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Aminder Singh, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

None for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

The instant revision petition has been filed against the judgment dated 05.05.2018 passed by learned Additional Sessions Judge, Sangrur, thereby dismissing the appeal and affirming the judgment of conviction and order of sentence dated 15.12.2016 passed by the learned Judicial Magistrate Ist Class, Sunam in FIR No. 116, dated 21.07.2013, registered at Police Station Dirba, for commission of offences under Sections 279 and 338 IPC, and accordingly awarded sentence RI for a period of six months and to pay a fine of ₹1000/- and in default thereof to further undergo S.I. For 15 days for commission of offence under Section 279 IPC and to undergo RI for a period of six months and to pay a fine of ₹1000 and in default thereof to further undergo S.I. For 15 days for

ordered to run concurrently.

Learned counsel for the petitioner contends that it is the motorcycle, which was coming from the opposite direction as is evident from site plan Ex.P-3 and was being driven in a rash and negligent manner. It is asserted that the case of the prosecution is falsified, inasmuch as, it is the motorcycle driver, which rammed into the offending car bearing registration No. DL-1-YA-6612, which belongs to the petitioner. The injured has received injuries on the left side of his body then as to how four fingers of his right hand got such injury which were amputated. He has, on the basis of this stand say that, it is clear that the accident had taken place due to the fault of the rider of the motorcycle/injured.

A perusal of the case file and the judgment of the Court below clearly show that, in fact the prosecution has established its case by way of examining PW-3 Krishan Singh, PW-4 Darshan Singh (eye witness) and PW-5-Gurmeet Singh that on 20.07.2013, when PW-3 Krishan Singh and PW-4 Darshan Singh while riding their motorcycle bearing registration No. PB-31-J-8358 were going from village Ladbansara Kalan to village Kauharian, the offending car bearing registration No. DL-1-YA-6612 was being driven in a rash and negligent manner and hit the motorcycle bearing registration No. PB-13-AC-8214. The presence of eye witness has also not been disputed at any stage and the counsel for the petitioner has failed to establish even from the cross-examination with regard to the fact that whether any suggestion was ever put to the effect that the motorcycle was coming from wrong direction, as alleged.

The oral testimonies of the witnesses produced by the prosecution and the documentary evidence as put forth, the real cause of

accident is that the car was being driven by the petitioner in a rash and negligent manner, he enabled the prosecution to establish its case beyond any shadow of doubt while convicting the petitioner particularly, in the light of the fact that PW-3 Krishan Singh has testified during cross-examination that there was no traffic on the road. Apart from the fact that the site plan Ex.P-3 was prepared by none other than the Investigating Officer PW-1 Harmeet Singh, showing that the motorcycle had been hit at point 'B'.

As far as the assertion that as to how amputation of right hand can be there which is also alleged to be prior to the occurrence is concerned, PW-6 Dr. Nikhil Mehta has deposed that he examined the injured Gurmeet Singh and found the following injuries:-

1. Near total amputation at elbow left side;
2. Open grade III B fracture mid shaft femur left side;
3. Open grade III B comminuted fractured proximal tibia left side;
4. Wound over left thigh;
5. Degloving injury upper third leg left side;
6. Wound over the scalp;

He further deposed that the patient was operated on 20.07.2013 for debridement and irrigation of wound over left thigh and above elbow amputation left side, open reduction, internal fixation of fracture femur with ufn (10x40), suturing of wound over scalp by plastic surgery team on 29.07.2013, split skin grafting of wound over left thigh on 07.08.2013, application of hybrid external fixator over left leg and patella wiring on 09.08.2013, medical head gastrocnemius muscle flap for degloving injury upper third left leg with STSG done by the plastic surgery team under Dr. Ramesh Garg and he patient was discharged on 24.08.2013.

The summary and discharge slip have already been proved as Ex.PW6/A.

In the light of the discussion made hereinabove and the evidence particularly medical record led by the prosecution, the present petition fails being devoid of any merit and stands dismissed.

Consequently, the judgment dated 05.05.2018 passed by learned Additional Sessions Judge, Sangrur, thereby dismissing the appeal and affirming the judgment of conviction and order of sentence dated 15.12.2016 passed by the learned Judicial Magistrate Ist Class, Sunam, is upheld.

The application for suspension of sentence i.e. CRM-1927-2022 stands disposed of, as having been rendered infructuous in view of disposal of main revision petition.

**SANDEEP MOUDGIL
JUDGE**

23rd NOVEMBER, 2022.
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| 1. Whether speaking/ reasoned : | Yes / No |
| 2. Whether reportable : | Yes / No |