

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR-469-2023 (O&M)
Date of decision : 11.09.2023

Inderjit Singh..... Petitioner

versus

State of Punjab..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Kunal Vinayak, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. Present revision petition has been preferred impugning the judgment dated 04.02.2023 passed by the Additional Sessions Judge, Kapurthala affirming the judgment of conviction dated 11.09.2018 passed by JMIC, Phagwara.
2. Petitioner is a convict for offences punishable under Sections 279 and 304-A in FIR No.36 dated 16.06.2016, registered for the offences punishable under Sections 304-A, 279, 337, 338 and 427 of IPC, at Police Station Rawalpindi, Phagwara, who has been sentenced as under:-

Under Section	Sentence
279 IPC	SI for 6 months and fine of ₹500/-, in default of making fine to further undergo SI for one week.
304-A IPC	SI for one year and fine of ₹2000/-, in default of making fine to further undergo SI for one week.

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3. As per the case of the prosecution, on fateful date i.e. 16.06.2016 Man Bahadur lost his life in a vehicular accident while riding motorcycle after being hit by a punjab roadways bus being driven rashly and negligently by the petitioner. After appreciating evidence on record, the trial Court found that the prosecution successfully proved rashness and negligence on part of the petitioner and convicted him for offence punishable under Sections 279 and 304-A IPC.

4. Counsel for the petitioner while assailing the findings qua rashness and negligence has relied upon photographs as well as the testimony of PW-5 Dil Bahadur, who is the complainant to submit that the bus was on its correct side. The deceased alongwith his accomplices on the motorcycle were in violation of traffic rules as admittedly they were triple riding the motorcycle. He submits that once the bus was admittedly on its correct side, the finding w.r.t. rashness and negligence is result of misreading of evidence and thus needs to be set aside.

5. Having heard counsel for the petitioner and after going through the records of the case, this Court finds that so far as the factum of accident as well as the fact that the petitioner was driving the bus involved in the accident, the same is beyond doubt. So far as the finding w.r.t. rashness and negligence is concerned, there is a pure finding of fact which has been found by both the Courts below after appreciating the evidence on record.

6. Scope of revisional jurisdiction at the hands of this Court while dealing with concurrent findings of fact recorded by Courts below is no more res-integra. In *Duli Chand vs. Delhi Administration*, (AIR 1975

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Supreme Court 1960), the scope of invoking jurisdiction of the High Court in criminal revision was examined and it was held in a case involving vehicular accident as follows:

“The question whether the accused was guilty of negligence in driving the bus and the death of the deceased was caused on account of his negligent driving is a question of fact which depends for its determination on an appreciation of the evidence. While the Magistrate and the learned Additional Sessions Judge hearing the appeal arrived on assessment of the evidence at a concurrent finding of fact that the death of the deceased was caused by negligent driving of the bus by the accused and the High Court even though justified in refusing to re-appreciate the evidence reviewed the same in order to justify that there was evidence in support of the finding of fact and that the finding was not perverse, came to the conclusion that the evidence established the death of the deceased was caused by the negligent driving of the bus by the accused, the Supreme Court on an appeal under Article 136 refused to interfere.”

7. Similarly, in *State of Orissa vs. Nakula Sahu and Ors. (AIR 1979 Supreme Court 663)*, it was held that the High Court should not have interfered with the concurrent findings recorded by the Trial Court and the Sessions Judge in exercise of revisional jurisdiction when there was no error of fact or law arrived at by the Trial Court or the Sessions Judge. In *State of Kerala v. Puttamana Illath Jathavedan Namboodiri, 1999(1) RCR (Criminal) 808: (1999(2) SCC 452)* it was held that the revisional jurisdiction is one of supervisory jurisdiction exercised by the High Court

for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate Court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice.

8. Counsel for the petitioner has not been able to point out any evidence on record which though on record was not appreciated by the Courts below or any other legal infirmity which calls for exercising jurisdiction Section 401 Cr.P.C.

9. In view of above, this Court does not find that there is any reason to persuade this Court to re-appreciate the evidence while exercising jurisdiction under Section 401 Cr.P.C.

10. Consequently, the present petition is dismissed.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

11.09.2023
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No