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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-829-2019 (O&M)

Date of decision: 10.08.2023

Manjit Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sushil Saini, Advocate,
for the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Instant revision has been filed by the petitioner against the judgments/order of the Courts below.

2. Petitioner/accused has assailed judgment of conviction dated 23.11.2015 passed by learned Judicial Magistrate First Class, Fatehgarh Sahib whereby petitioner was convicted under Sections 279, 304-A IPC and order of sentence dated 23.11.2015 whereby he was sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.2000/- and judgment dated 11.02.2019 passed by learned Additional Sessions Judge, Fatehgarh Sahib whereby conviction of the petitioner was upheld and appeal was dismissed.

3. Brief facts of the case in hand, as recorded by learned trial Court in the impugned judgment, are reproduced as under:

“Brief prosecution story is that the case was registered on the basis of statement made by complainant Nirmal Singh that on 06.10.2009 he was coming from Mandi Gobindgarh after completing his duty on his motorcycle. At about 8.45 p.m. when he reached near village Gurudwara Sahib, one Mahindera Jeep of white colour with open body driven by Hindu person and two persons were sitting in the said jeep coming from Bassi Pathana side. The said jeep was in very high speed and crossed him with rash and negligent manner and jeep driver struck his jeep with a motorcycle coming from Shaheedgarh side without blowing the horn. One lady was also sat on the back seat of that motorcycle. The motorcyclist fell down on the ground and injured was admitted to civil hospital Bassi Pathana where he died. The name of deceased was Sukhdev Singh son of

Dharam Singh resident of village Shaheedgarh. The wife of Sukhdev Singh also suffered injuries. He came to know number of motorcycle as PB23-T-1213. The name of driver of Jeep was Manjit Singh son of Des Raj resident of village Kotla Bajwara and the number of Jeep was PB08- AC-4756(T). Ruqa was sent. Photographs were clicked. Site plan of the place of occurrence was prepared. Statements of witnesses were recorded. Jeep and motorcycle were taken into police possession. The post mortem of the dead body was got conducted. After the arrest and bail of accused, investigation was completed and challan was presented u/s 279, 304-A, 427 of IPC.”

4. Accused was charge-sheeted under Sections 279, 304-A of the Indian Penal Code, to which he pleaded not guilty and claimed trial.

5. To support the charges, prosecution examined as many as 11 witnesses, namely, Jagar Singh as PW1, HC Rajinder Kumar as PW2, Nirmal Singh as PW3, Kamlesh Kumari as PW4, Dr. Navdeep Singh Brar as PW5, Lakhvir Singh as PW6, Himmat Singh as PW7, Lakhwinder Kaur as PW8, Darshan Singh as PW9, Major Singh PW10, Gurpreet Singh as PW11.

6. All the incriminating evidence produced by the prosecution was confronted to the accused in his statement under Section 313 Cr.P.C. He controverted the same and pleaded innocence. However, he did not adduce any evidence in defence.

7. After hearing both the parties, learned trial Court convicted him under Sections 279 and 304-A IPC and was accordingly sentenced.

8. Aggrieved against the impugned judgment of conviction dated 23.11.2015, convict filed an appeal, which was dismissed vide order dated 11.02.2019 and petitioner herein was sentenced, as aforesaid in para 2 of this judgment.

9. Learned counsel for petitioner submits that both Courts below miserably failed to appreciate the evidence on record while returning the impugned findings. He further submits that perusal of the statement of complainant PW-3 Nirmal Singh would show that admittedly he did not admittedly witness the alleged accident and further he had not seen the person who

was driving the offending vehicle at the time of alleged accident. Learned counsel further urges that even injured Lakhwinder Kaur could not depose anything against the petitioner in order to involve him in the present case. She too did not notice the registration number of the vehicle.

10. Per contra, learned counsel appearing for the State contends that learned courts below after considering the evidence and material on record rightly convicted and sentenced the petitioner.

11. I have heard the rival contentions of learned counsel for the parties and have perused the case file.

12. Learned trial Court, *inter alia*, has held as under:-

“Thus there is no dispute as to the time of accident nor as to the identity of accused nor there is doubt upon the rashness and negligence of the accused. The accused had driven his vehicle so rashly and negligently that it was danger to human life and safety. Furthermore, accused had caused accident with the deceased Sukhdev Singh whereby he caused his death by rash and negligent driving. There is no proof of intention of accused as to cause mischief. Accordingly accused is convicted under section 279 IPC for driving his vehicle rashly and negligently so as to endanger human life and safety and under section 304-A IPC for having caused death of Sukhdev Singh by the said rash and negligent driving of his. Accused is accordingly convicted under section 279 IPC and 304-A IPC. Let convict be taken into custody and be heard on the quantum of sentence.”

13. Learned First Appellate Court observed as below:-

“11. The accused-appellant has also not disputed that he was not plying the Jeep bearing registration No. PB-11AT-9532 at the time of accident. Though it was a private vehicle which was belonging to a liquor vendor/ contractor and as per the testimony of Major Singh investigation officer of this case examined by the prosecution as PW-10, the prosecution has proved that accused Manjit Singh was employed by Karnail Singh as a driver on the said Jeep and the accused was produced before the investigating officer in the investigation of this case. From the statement/testimony of SI Major Singh examined by the prosecution as PW-10 and he being the investigating officer of the case had proved the investigation record of the case such as FIR EXPW10/B regarding which no protest was lodged by the appellant- accused either at the pre-trial stage or during the trial of the case.

12. There is nothing convincing on record that as to why the police of PS Bassi Pathana could have implicated him in a false case. No defence to that effect has been produced and proved on record on behalf of the appellant-accused before the Ld. Trial Court

which could dislodge the case of prosecution entirely or no such defence has come on record which could have belied the case of the prosecution in entirety. Therefore, from the close scrutiny of the judgment of the Ld Trial court and from reappraisal of the entire prosecution evidence led on record in the shape of the witnesses of prosecution examined from PW-1 to PW-10, this Court in appeal also has not been able to find any material discrepancy or lacuna in the case of the prosecution nor this Court has been able to find any convincing defence to the same.

13. The judgment of the Ld. Trial Court vide which the appellant-accused was held guilty for the offence punishable under Section 279, and 304-A IPC and vide which the Ld. Trial Court held that the prosecution has successfully proved its case, is a legal and valid judgment in the eyes of law and the said judgment is based on proper and correct appreciation of entire prosecution evidence whether oral or documentary and this Court has not been able to find any irregularity or illegality in the judgment of the Ld. Trial court impugned in appeal which could warrant any interference.

14. Argument advanced by Ld. Counsel for the appellant-accused are found bereft of any merits along with appeal and the same is hereby dismissed, the judgment of the Ld. Trial Court impugned in appeal is hereby upheld. The appellant be taken into custody immediately and be sent to Jail for serving sentence upon him as passed by the trial court. Trial court file along with one copy of this Judgment be sent back to the trial/ successor court. Whereas appeal file be consigned to Judicial record room (Sessions) Fatehgarh Sahib.”

14. Having perused the impugned judgments, my considered opinion is that the prosecution witnesses withstood the test of cross-examination and nothing substantial could be elicited in favour of petitioner. The submissions made before learned Courts below were duly considered and rightly repelled by recording sound and sufficient reasons consistent with the trustworthy evidence on record. I am inclined to agree with the findings of conviction recorded by the learned Courts below which need no interference of this Court.

15. From the record, it is borne out that the incident took place in the year 2009. The revision petition pertains to the year 2019. The petitioner has already suffered protracted trial of around 14 years. Petitioner was about 28 years of age, at the time of conviction and further he has undergone sentence for a period of 3 month and 28 days out of one year. The petitioner is a poor person. His antecedents are clean.

16. Learned State counsel has though been able to defend this case on merits, but insofar as reduction of sentence imposed upon petitioner is concerned, I am of the opinion that no useful purpose would be served by sending the petitioner to jail at this point of time again to undergo the remaining period of sentence. Given the overall scenario, in my view, ends of justice will be met if the substantive sentence of imprisonment is reduced to period of detention already undergone by the petitioner.

17. Consequently, the conviction of the petitioner, as mentioned above, is maintained. However, the sentence of rigorous imprisonment is reduced to the period of detention already undergone by him. However, the sentence of fine is enhanced from 2000/- to Rs. 5000/- to be paid to the legal representatives of deceased. Learned counsel for petitioner informs that fine imposed by learned trial Court has already been paid.

18. The impugned order of sentence stands modified to the extent indicated above. Accordingly, the present revision is partly allowed. The petitioner is stated to be on bail. His bail bonds shall stands discharged.

19. Pending application(s), if any, shall stand disposed of.

(ARUN MONGA)
JUDGE

10.08.2023
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No