

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-2172-2007

Date of Decision: February 24, 2023

Gurjant Singh

...Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ishmeet Singh, Advocate for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

DEEPAK GUPTA, J.

In criminal case No.83-1 of 2002, arising out of FIR No.180 dated 13.05.2002, registered at Police Station City Muktsar, petitioner-Gurjant Singh has been convicted vide judgment dated 30.05.2007 under Section 304-A IPC by learned Judicial Magistrate 1st Class, Muktsar. Vide separate order of even date, he was sentenced to undergo rigorous imprisonment for a period of 1 year and to pay a fine of ₹2,000/- with default sentence. Criminal Appeal No.83 of 2007 against the above said judgment of conviction and order of sentence has been dismissed by learned Addl. Sessions Judge (Ad hoc), Fast Track Court, Muktsar, vide judgment dated 15.10.2007. Against these concurrent findings, present revision is filed. The revision was admitted on 19.11.2007 and vide order dated 18.12.2007, the sentence of the petitioner was suspended.

2. According to the prosecution case, on 13.05.2002, complainant Pirthi Singh along with his nephew had come to Muktsar City from the village in connection with some work. They were standing outside bus stand, Muktsar, when they noticed bus bearing registration

No. PB-11F-9729 coming rashly and negligently. The driver of the said

bus tried to enter the gate of bus stand, when a boy tried to alight from the rear door. However, the driver drove the bus, due to which that boy fell down and received injuries. The complainant and his nephew ran towards the spot and noticed that his own son Beant Singh was lying there with injuries. Injured was shifted to the Civil Hospital, Muktsar, but he died there. On the statement of Pirthi Singh, i.e. father of the victim, FIR was lodged. Investigation was carried out. Prosecution evidence was taken on record and conviction was recorded by the Trial Court and appeal was dismissed by the Appellate Court, as noticed earlier.

3. It is contended by the petitioner that both the Courts below fell in error in recording the conviction, inasmuch as petitioner was not arrested from the spot. No test identification parade was conducted and that identity in the Court for the first time has no significance. Courts below did not consider the fact that accident took place in a crowded place but still no independent witness was examined to substantiate the allegations, as the witnesses examined by the prosecution are highly interested and there are material discrepancies in their statements, inasmuch as there is discrepancy as to whether deceased was trying to alight from the rear door or the front door of the bus. Attention is drawn towards the fact that in the FIR, police alleged that victim was alighting from the front door of the bus but as per the final report under Section 173 Cr.P.C., victim was alighting from the rear door. It is contended that in case version mentioned in the final report is accepted, there is remote chance of the death of the victim by the rear tyre of the bus as the rear tyre is ahead of the rear door.

4. Learned counsel for the petitioner further contends that presence of the complainant Pirthi Singh at the spot is highly doubtful

because the postmortem report shows that victim was brought to the hospital by some other persons and not the complainant. Apart from this, it is contended that even if the allegations of the prosecution are taken on face value, no case under Section 304-A IPC is made out because the bus driver was turning the bus inside the gate of the bus stand looking forward and so could not be in a position to see that someone was trying to alight from the rear door of the moving bus.

5. After hearing contention of both the sides, I find merit in the submissions of learned counsel for the petitioner.

6. In order to prove the allegations, prosecution examined complainant Pirthi Singh as PW1, who testified that on 13.05.2002, as he was standing outside the bus stand, accused brought the offending bus and as he (Pirthi Singh) was entering the bus stand, the driver stopped the bus for him. Victim Beant Singh was alighting from the front door of the bus but in the meantime accused drove the bus and Beant Singh came beneath the tyre. PW2 Raja Singh and PW3 Sukhdev supported the version of PW1.

7. As is evident from the testimony of PW1, he has changed the entire version comparing to the manner of accident disclosed by him to the police in his statement recorded, which is the basis of the FIR. As per initial version, complainant Pirthi Singh and his nephew were standing outside the bus stand, when they noticed the bus coming being driven rashly and negligently and as the driver of the bus tried to enter the gate, a boy tried to alight from the rear door but driver drove the bus and the person fell down and received injuries. There is no mention in the initial version that bus driver had stopped the bus at the sight of the complainant. There is no mention in the initial version that the victim was alighting from a standing

bus and then the accused drove the bus. In these circumstances, the testimony of PW1 Pirthi Singh and for the same reason, the statements of PW2 and PW3, cannot be believed.

8. Further, I agree with the contention of learned counsel for the petitioner that when a driver is taking turn to enter the gate of the bus stand, in most likelihood, he is looking forward and will not be in a position to look at the rear door of the bus in order to see as whether someone is trying to alight from the moving bus. Victim Beant Singh was himself negligent as he tried to alight from a moving bus and fell down. Even if, it be assumed that bus had slowed down as it was entering in the gate, the victim was not supposed to alight from the moving bus unless it had come to a complete halt.

9. In the face of aforesaid facts and circumstances, it cannot be stated that petitioner-bus driver drove the bus in rash and negligent manner so as to attract Section 304-A IPC.

10. Consequently, impugned judgments/orders of both the Courts below are set aside. Petitioner is acquitted of the charges. Since, the petitioner is on bail, his bail/surety bonds stand discharged.

The petition is allowed accordingly.

February 24, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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