

CRR No.1733 of 2008

Date of decision : 11.12.2023

Joginder Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Jaswinder S. Arora, DAG, Punjab.

PANKAJ JAIN, J. (Oral)

Petitioner has filed the instant revision petition impugning the judgment dated 23rd of August, 2008 passed by Additional Sessions Judge, Jalandhar whereby appeal preferred by the petitioner against the judgment of conviction dated 5th of July, 2007 passed by ACJM, Jalandhar, stands dismissed.

2. Vide impugned judgment, Ld. Trial Court convicted the petitioner for offences punishable under Section 304-A, 279 IPC in case FIR No.293 dated 21st of April, 2001 registered at Police Station Sadar, Jalandhar and sentenced him as under :

Section (IPC)	Imprisonment (R.I)	Fine (in Rs.)	In default of payment of fine (imprisonment)
304-A	1½ year	500/-	1½ month R.I.
279	6 months	300/-	1 month RI

3. As per the case of prosecution, FIR was registered on the statement of one Baljinder Singh to the effect that on 21st of April, 2001, he along with his cousin brother namely Paramjit Singh were going towards Maqsudan on their cycles. Paramjit was going ahead of him. When they reached near Red Cross School one three wheeler bearing registration No.PB-08-AA-1673 coming from their behind in a rash and negligent manner struck Paramjit Singh leading to his death. Driver of the offending vehicle fled away from the spot.

4. Trial Court after appreciating the evidence on record came to the conclusion that the prosecution has proved its case beyond reasonable doubt. Accident was caused on account of rash and negligent driving by petitioner and thus, convicted him for offences punishable under Section 304-A, 279 IPC.

5. The petitioner preferred an appeal before the lower Appellate Court. The learned Appellate Court found that the judgment and order of sentence passed by the learned Trial Court does not suffer from any infirmity and consequently, dismissed the appeal.

6. Counsel for the petitioner contends that both the Courts below erred in passing the impugned judgments as the prosecution has failed to prove the identity of the petitioner being the one who drove the offending vehicle and fled away from the spot after the accident

took place. Initially name of the petitioner does not figure in the FIR. Petitioner was not arrested on the spot. No test identification parade was conducted. Petitioner was only identified before the Court by the complainant. He thus contends that the story put-forth by the prosecution lacks credible proof and is doubtful. The prosecution having failed to prove its case beyond shadow of reasonable doubt, 'benefit of doubt' should be given to the petitioner.

7. Per contra State Counsel submits that the case of the prosecution stands fully proved by PW-3 Baljinder Singh complainant, who in his testimony is unambiguous w.r.t. the occurrence and the involvement of the petitioner in the same. The same stands duly corroborated by way of statement of PW4-Sukhdev Singh, who is an eye-witness to the alleged accident. *Qua* involvement of the offending vehicle i.e. three wheeler, prosecution has relied upon oral version of PW1 Krishan Kumar, who mechanically tested the three-wheeler and gave his report, which is part of record as Exhibit PA. He thus contends that the presence of Joginder Singh on the place of occurrence has been fully established from the records of the case and, thus, no fault can be found with the judgments passed by the Courts below.

8. I have heard counsel for the parties and have gone through

records of the case.

9. Counsel for the petitioner wants this Court to re-appreciate the entire evidence and has not been able to show any glaring error of law that can persuade this Court to exercise jurisdiction under Section 401 of the Code.

10. Law w.r.t. exercise of revisional jurisdiction of this Court in the matters pertaining to offence punishable under Section 304-A IPC already stands settled by the Apex Court in **Raj Kumar vs. State of H.P., (2008) 11 SCC 76**, holding as under :

“In **Duli Chand v. Delhi Administration, (AIR 1975 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 death of the deceased was caused due to negligent driving is a question of fact which depends for its determination on appreciation of the evidence. While the Magistrate, and the Additional Sessions Judge arrived on assessment of the evidence at a concurrent finding of fact that the death of the deceased was caused by negligent driving of 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 itself that there was evidence in support of the finding 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."

8. In **State of Orissa v. 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.

9. We find that the trial Court and the Revisional Court have analysed the evidence in detail to come to the conclusion about the guilt of the accused. There is no manifest error in the conclusions or in analyzing the evidence. That being so, the High Court was justified in law in not exercising revisional jurisdiction.”

11. In view of above, this Court is of the opinion that counsel for the petitioner has not been able to point out any glaring error of law that can persuade this Court to exercise revisional jurisdiction to upset the findings recorded by the Courts below. The Courts have rightly appreciated the entire evidence and found the petitioner guilty. Consequently, the present revision is dismissed.

12. Sentence of the petitioner was suspended by this Court vide order dated 7th of November, 2008 and it was ordered that his sentence shall remain suspended till the pendency of this revision

petition. Since the revision stands finally decided against the petitioner, he is now directed to surrender before the CJM/Jail Authorities concerned within two weeks from the date of communication of this order. On his doing so, he shall be taken into custody forthwith to suffer the remaining period of his sentence.

13. Ordered accordingly.

December 11, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No