

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

**CRR No. 3098 of 2017
DATE OF DECISION :- 20.09.2023**

Rajbir

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Rajesh Lamba, Advocate for the petitioner.

Mr. Gurmeet Singh, Assistant Advocate General, Haryana.

PANKAJ JAIN, J. (Oral)

The petitioner stands convicted for offence punishable under Sections 304-A, 337 and 279 of the Indian Penal Code by Judicial Magistrate Ist Class, Gurugram and judgment of conviction stands affirmed by Additional Sessions Judge, Gurugram, however, the sentence as awarded by the trial Court stands reduced from two years to one and a half year.

2. The F.I.R was registered on the statement made by one Bijender son of Richpal, who stated that on 23.10.2013 at about 2/2.30 P.M, he was following motorcycle of Ravi, who was travelling along with his wife and child aged about 2 years on motorcycle; when they reached near the gate of L&T company, one JCB, which was being driven in rash and negligent manner struck the motorcycle of Ravi, leading to fall of the motorcycle and death of Ravi on the spot. Wife of Ravi namely Sunita and child Dev also

sustained injuries. The petitioner is stated to be the driver of the offending vehicle.

3. The petitioner was challaned and put to trial. After analysing the evidence, the petitioner was convicted for offences under Section 304-A, 279, 337 IPC as under :-

For offence under Section 279 IPC	3 months
For offence under Section 337 IPC	3 months
For offence under Section 304-A IPC	2 years

4. The aforesaid judgment of conviction stands affirmed by the Appellate Court vide judgment dated 24.8.2017. However, the sentence stands partially modified and reduced to one and a half year qua offence punishable under Section 304-A IPC.

5. Learned counsel for the petitioner while assailing the judgement has relied upon the testimony of the complainant and stated that it is admitted by the complainant himself on the spot that the road was damaged and thus the findings recorded by the trial Court with respect to rashness and negligence against the petitioner are wrong, benefit of doubt with respect to damaged road ought to have been given to the petitioner.

6. Per contra, learned State counsel states that both the Courts have found petitioner guilty and there is no evidence on record that it is the damaged road which led to the accident. Learned State counsel has stated that there is nothing on record and not even suggestion has been put as to the damaged road being reasoned for the accident of the complainant.

7. Having heard learned counsel for the parties and after going through the record of the case, this Court finds that so far as the involvement of offending vehicle and the identity of the petitioner being driver of the

offending vehicle is concerned, the same is not in dispute. Learned State Counsel is right, in the absence of any 'cause and effect' relation between damaged road and the accident, petitioner cannot get any benefit from the fact of road being damaged.

8. Law with respect to exercise of revisional jurisdiction in a case involving vehicular accident has been deliberated upon by the Apex Court in '**Duli Chand vs. Delhi Administration**, AIR 1975 SC 1960' holding as under:-

"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. In view of the above, this Court does not find any reason for interference to the revisional jurisdiction.
10. Accordingly, the petition stands dismissed.

(PANKAJ JAIN)
JUDGE

20.09.2023
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No