

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

CRR-64-2015

Reserved on: 15.09.2023

Pronounced on: 19.09.2023

Narinder Singh

. . . . Petitioner

Vs.

State of Punjab

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr.J.S. Thind, Advocate, with
Mr. Bikramjit Singh, Advocate, for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

DEEPAK GUPTA, J.

Petitioner was tried by the Court of ld. Additional Chief Judicial Magistrate, Amritsar in a case arising out of FIR No.43 dated 09.06.2011 registered at Police Station Kathunangal, under Sections 304-A, 279, 337 and 427 IPC. After holding him guilty under Sections 279 and 304A IPC vide judgment dated 10.04.2014, ld. trial Court sentenced him to undergo rigorous imprisonment for a period of 2 years for committing the offence under Section 304A IPC besides payment of fine of ₹2000/- and default sentence of 15 days. Petitioner was also sentenced to undergo rigorous imprisonment for 6 months for offence under Section 279 IPC. Both the sentences were directed to run concurrently.

2. Appeal filed by the petitioner against the aforesaid judgment of conviction and sentence was dismissed by the ld. Additional Sessions Judge, Amritsar vide judgment dated 04.12.2014.

3. Against the aforesaid concurrent finding of conviction recorded by the Courts below, this revision has been filed.

4. (i) It is contended by ld. counsel that both the Courts below committed error in convicting the petitioner without any cogent evidence on record. There was no evidence on record to establish the identity of the petitioner as driver of the offending vehicle. No test identification parade was conducted. There was unexplained delay of 24 hours in lodging the FIR, which has been ignored. Neither Investigating Officer of the case nor any other police official was examined to prove the steps taken during investigation. Although it is alleged that accident took place at a public place, but no independent witness was examined. The prosecution examined only 3 witnesses, which could not establish the identity of the petitioner as the driver of the offending vehicle and in all these circumstances, petitioner deserves to be acquitted, by setting aside the impugned judgments.

(ii) Ld. counsel also made an alternative submission. It is submitted that an amount of ₹8 lakh has already been awarded to the legal heirs of the deceased in a claim petition filed under the Motor Vehicle Act. Later on, compromise was effected between the petitioner and the legal heirs of the deceased, whereby petitioner paid additional amount of ₹90,000/- to them. That compromise deed dated 18.05.2015 is Annexure P1 and looking into these circumstances and the fact that occurrence had taken place way back in June 2011 and that petitioner has faced agony of these proceedings for a period of more than 12 years, he may be sentenced for the period already undergone by him.

5. Ld. State counsel has opposed both the aforesaid prayers and defended the impugned judgments.

6. As per the prosecution version on 08.06.2011, Tarlok Singh (PW1) along with Kulwinder Singh, Rinku, Ranjit Singh (PW2), Arvind and Bikramjit Singh were travelling on a tractor trolley from Kathunangal to Abdal. At about 2.00 PM, when they reached bus stop Sahnewali, a truck bearing No. PB-06L-8105 came from behind being driven at fast speed and hit the tractor trolley, toppling the same. All the occupants of the trolley sustained serious injuries. The tractor was damaged. The truck driver fled away leaving his vehicle at the spot. Ambulance came and the injured were shifted to different hospitals. On the statement of Tarlok Singh made to the police on 09.06.2011, FIR was registered. After 3-4 days, Kulwinder Singh died. During investigation, accused was arrested. Statements of witnesses were recorded. Vehicles involved in the accident were taken into possession. After completing necessary formalities of investigation, challan was presented in the Court.

7. Accused (petitioner herein) was charge-sheeted under Sections 304-A, 279, 337 and 427 IPC by the trial Court. After recording the evidence produced by the prosecution, statement of accused under Section 313 Cr.P.C. was recorded in which he controverted the incriminating material against him and pleaded false implication. However, no defence was adduced.

8. After hearing both the sides, ld. trial Court though acquitted the accused under Sections 337 & 427 IPC, but found him guilty under Sections 279 & 304A IPC and convicted him thereunder and sentenced

him, as per the details given earlier. Said conviction and sentence has been upheld by the Appellate Court.

9. After perusing the trial Court record with the assistance provided by the Id. counsel for the petitioner, I find that both the Courts below went in grave error in recording the conviction, inasmuch as the identity of the accused-petitioner to be driver of the offending truck was not at all established. It is to be noted that prosecution examined only 3 witnesses so as to prove its charges. PW1-Tarlok Singh and PW2-Ranjit were the occupants of the tractor trolley. Though both of them deposed about the manner of accident, whereby a truck coming from behind and being driven in rash and negligent manner hit the tractor trolley, but as per their statements, the truck driver had fled away. Statements of none of these witnesses reveal that they had seen the truck driver at the spot. Both of them disclosed in their cross-examination that they had seen the accused for the first time in the Court.

10. The only other witness examined by the prosecution is PW3- Dr. Manpreet Kaul, who proved the postmortem report of the deceased. Prosecution did not examine the Investigating Officer of the case so as to prove the steps taken during investigation as to whether any documents were recovered from the offending truck taken in possession from the spot or as to how the I.O. reached to the conclusion that it is the accused-petitioner, who was driving the truck at the relevant time. No evidence was adduced by the prosecution as to who was the owner of the offending truck and whether the statement of such owner of the truck was recorded in order to elicit as to who was on the steering wheel of the offending truck at the

time of accident. Prosecution did not prove the site plan of the place of accident or the mechanical examination reports of the vehicles involved in the accident.

11. In view of the aforesaid circumstances, particularly non-establishing the identity of the accused-petitioner as the driver of offending vehicle, when even the test identification parade was never conducted and none of the witnesses stated to have seen the accused at the spot after the accident, the conviction as recorded by the trial Court and as affirmed by the Appellate Court, cannot be sustained in the eyes of law.

12. Consequently, the present revision petition is hereby allowed. The impugned judgments of conviction as recorded by the trial Court and as affirmed by the Appellate Court, are hereby set aside.

(DEEPAK GUPTA)
JUDGE

19.09.2023

Vivek

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |