

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR-229-2024 (O&M)
Date of decision : 26.02.2024

Pargat Singh Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. K.K. Thakur, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

1. Present revision has been filed impugning the judgment passed by Additional Sessions Judge, Ludhiana dated 28.11.2023 affirming the judgment of conviction passed by Judicial Magistrate 1st Class, Ludhiana dated 10.04.2019, whereby the petitioner stands convicted for offences punishable under Sections 279 and 304-A of the IPC in case FIR No.12 dated 24.01.2013 registered at Police Station Sarabha Nagar, Ludhiana.

2. The matter relates to motor-vehicular accident that occurred on 24.01.2013 leading to death of one Harjot Singh. The FIR was registered on the information made by one Inderpal Singh who suffered a statement that his nephew Harjot Singh was going to his college on his motorcycle bearing No.PB-10CU-1133. At about 9.30 a.m., a bus on high speed came from Ludhiana side without blowing any horn struck against motorcycle of Harjot Singh. Due to this accident, Harjot Singh fell on road and died at the spot. The petitioner

who was named in the FIR as driver of the offending vehicle was

booked and put to trial. The complainant appeared as PW-1 and supported the case of the prosecution.

3. After analyzing the evidence threadbare Trial Court found the petitioner guilty and accordingly sentenced him as under :-

Section (IPC)	Rigorous Imprisonment	Fine (in Rs.)	In default of payment of fine (rigorous imprisonment)
279	6 months	1000/-	15 days
304-A	2 years	7000/-	2 months

4. In appeal preferred by the petitioner the conviction as well as sentence stands maintained.

5. Counsel for the petitioner while assailing the judgments passed by the Courts below submits that initially, the FIR was registered against Palwinder Singh (co-accused) and later on charges were framed against the present petitioner based on the statement of the complainant.

6. Having heard counsel for the petitioner and after going through records of the case, this Court finds that the argument raised by counsel for the petitioner sans merit and is thus rejected.

7. Statement of PW-1 reads as under :-

“On 24.01.2013 he alongwith his friend Bhupinder Singh were going on his Swift car bearing no.PB-10CB-0134 from Ludhiana to Mullanpur. His nephew Harjot Singh was proceeding to his college i.e. Sri Aurobindo College of Commerce and Management, village Jhande on his Yahama R-15 motorcycle bearing no.PB-10CU- 1133 at approximate time 09.30 am. He was driving his motorcycle carefully and cautiously at a very low speed and on left side of

the road, two buses came from behind when Harjot Singh has just reached in front of MBD Mall, Ferozepur Road, Ludhiana and the buses were racing against each other so as to pick up the passengers first from the other bus and in this attempt, accused Palwinder Singh (driver of bus no.PB-31C- 4523) made an attempt to overtake motorcycle of deceased Harjot Singh at a very high speed in a reckless and negligent manner and rammed his bus on the backside of motorcycle of Harjot Singh causing his fall on the road whereas accused Pargat Singh (driver of bus no.PB-10DD-(T)-6599) was chasing the bus driven by accused Palwinder Singh in a rash and negligent manner and in this attempt, he crushed deceased Harjot Singh under the tyre of his bus while he was making an attempt to overtake deceased from wrong side and after that, accused Pargat Singh stopped his bus and came down from the bus and someone yelled his name Pargat Singh and told him that the boy had died. At this, accused Pargat Singh fled away from the spot and abandoned the bus at the spot and fled away from there, whereas accused Palwinder Singh managed to escape with his bus from the spot. Bus driven by accused Pargat Singh was taken into custody by the police. The photographs of said bus were taken on the spot and even the media had taken photographs of the said bus, but later on police was influenced by owners of bus driven by accused Pargat Singh, as such the police distorted his version recorded in the FIR and did not take any action against accused Pargat Singh. The accident took place due to contributory negligence of both the accused Palwinder Singh and Pargat Singh. Harjot Singh deceased lost his

life because of reckless and negligent driving of accused Palwinder Singh and Pargat Singh. He identified accused Palwinder Singh. He also identified accused Pargat Singh being driver of bus no.PB-10DD-(T)-6599. He further deposed that he narrated whole occurrence and bus number to the police. At the spot, police told him that they will write down his statement lateron in detail and they got his signature Ex.PA/1 on Ex.PA at the spot by stating that this is spot proceeding. Police took the bus bearing no. PB-10DD-(T)-6599 to the police station but lateron they did not take any action against driver of the bus despite his repeated requests. Photographs Mark A and B of said bus are also placed on the file. He further deposed that bus no. PB-10DD- (T)-6599 is now got registered as no.PB-30K-9587 is in the custody of chowki bus stand SMC Muktsar vide order of DTO Muktsar and proved the report as Ex.PW1/A. The gist of his cross-examination is that on 24.01.2013, he alongwith his friend Bhupinder Singh started for Mullanpur side. He does not remember whether his nephew i.e. deceased was wearing helmet or not. He approached the senior police officer regarding the fact that his statement was not recorded properly by police regarding the alleged incident. At the time of incident, many people gathered at the spot but he does not remember whether police had recorded statement of any person or not. He does not remember who yelled the name of accused Pargat Singh at the spot. Further, he deposed that just before the incident one mini bus overtook his car from right side and another bus overtook him from wrong side and the accident took place at 500/700 feet. The said mini bus rammed into the

motorcycle of deceased on which he fell down and another bus smashed his head. He has seen accused Pargat Singh driving the bus while he was sitting in his car. Further, he also deposed that the incident took place after crossing the traffic lights of MBD Mall.”

8. The contradiction as is being projected indeed is not there. Complainant Inderpal Singh (PW-1) is explicit to submit that the accused fled away from the spot after telling him his name.

9. 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."

10. In view of above, this Court does not find any reason to interfere in the judgments passed by the Courts below. Resultantly, the present revision petition is dismissed.

(PANKAJ JAIN)
JUDGE

26.02.2024
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No