



280

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-949-2020 (O&M)
Date of Decision:- 30.09.2024

RajnishPetitioner

Versus

State of HaryanaRespondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. P.K. Hooda, Advocate for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

* * * * *

AMARJOT BHATTI, J.

1. Petitioner Rajnish filed present revision for setting aside impugned judgment dated 07.03.2020 passed by learned Sessions Judge, Panipat, vide which appeal preferred against judgment of conviction dated 11.02.2019 and order of sentence dated 12.02.2019, was dismissed and upholding the judgment of conviction and order of sentence passed by learned Judicial Magistrate Ist Class, Panipat, in criminal case No. 201-2017 dated 04.03.2013/06.09.2017, titled as “State Versus Rajnish”, in FIR No. 35 dated 08.02.2013 under Section 279/337/338/304-A of Indian Penal Code, 1860 (for short ‘IPC’), registered at Police Station Matlauda, Panipat, vide which Rajnish was held guilty and convicted under Sections 279, 337, 338 and 304-A of Indian Penal Code, 1860 and was sentenced as under :-

Offence under Section	Period of sentence
U/s 279 of IPC	To undergo rigorous imprisonment for a period of 6 months



U/s 337 of IPC	To undergo rigorous imprisonment for a period 6 months
U/s 338 of IPC	To undergo rigorous imprisonment for a period of 2 years
U/s 304-A of IPC	To undergo rigorous imprisonment for a period of 2 years

2. Brief facts of the case are that on 08.02.2013, ASI Kanwar Singh received information regarding accident which took place near Thermal by-pass area near D.A.V. School. On receipt of information, he alongwith police party reached the spot and recorded statement of complainant Bhoop Singh who stated his nephews Sant Ram @ Sonu and Balraj @ Monu were going to Panipat for work. His nephews were riding motorcycle bearing No. HR-06P-7757 make Bajaj Platina, being driven by Sonu and Mony was pillion rider. Complainant was behind them on motorcycle bearing No. HR-06U-0572 alongwith his another nephew Shiv Kumar. At about 10 AM, when they reached near DAV School near Thermal by-pass area, a truck bearing No. HR-45A-1963, being driven by accused Rajnish, came at a very high speed and in rash/negligent manner from the side of Panipat. Said truck came on wrong side of the road and collided with Sonu’s motorcycle, dragging it on the kacha side of road and turned turtle in road side ditches. In the said accident, Sonu and Monu sustained severe injuries, whereas Sonu succumbed to injures. Complainant and his nephew Shiv Kumar took Monu to General Hospital, Panipat for medical treatment. Driver fled from the spot. On the basis of this complaint, present FIR was registered.

3. Investigation was commenced. Rough site plan of place of occurrence was prepared. Inquest proceedings and postmortem examination of dead body of Sonu @Sant Ram was conducted. Statements



of witnesses were recorded. During investigation, on 11.02.2013, accused Rajnish was arrested. After completion of all formalities, challan was prepared and it was presented in the Court of learned Illaqa Magistrate.

4. Accused was supplied complete set of copy of challan report as provided under Section 207 of Cr.P.C. After finding prima facie case for the commission of offence punishable under Sections 279, 337, 338 and 304-A of IPC against Rajnish, he was charge-sheeted by the Court of learned Judicial Magistrate Ist Class, Panipat vide order dated 30.04.2013. Contents of said charge-sheet were read over and explained to him in simple Hindi language to which he pleaded not guilty and claimed trial.

5. In order to prove the facts of case, learned Additional Public Prosecutor for State examined ASI Satpal Singh as PW-1, Bhoop Singh complainant as PW-2, Shiv Kumar as PW-3, Dr. Sukhdeep as PW-4, Dr. Archana Gupta as PW-5, Constable Ashok Kumar as PW-6, injured Balraj @ Monu as PW-7, Balbir as PW-8, ASI Randhir Singh as PW-9, Dr. Raghvender Singh as PW-10 and SI Kanwar Singh Investigating Officer as PW-11. Thereafter, learned Additional Public Prosecutor for State closed prosecution evidence.

6. Statement of accused was recorded under Section 313 Cr.P.C. to which he pleaded innocence and false implication. Accused Rajnish examined one witness in his defence namely Meharbhan as DW-1 and thereafter, vide separate statement of accused, he closed defence evidence.

7. After hearing arguments advanced by learned Additional Public Prosecutor for State and learned Counsel representing accused, accused Rajnish was convicted and sentenced under Sections 279, 337, 338

and 304-A of IPC, as referred above and feeling aggrieved of this judgment



of conviction dated 11.02.2019 and order of sentence dated 12.02.2019, convict Rajnish preferred appeal, which was also dismissed vide impugned judgment dated 07.03.2020. Feeling aggrieved of this judgment, present criminal revision has been filed.

8. I have heard arguments advanced by learned Counsel for petitioner-convict as well as learned Counsel representing State and have gone through the record carefully.

9. Learned Counsel for petitioner argued that judgment of conviction dated 11.02.2019 and order of sentence dated 12.02.2019, passed by learned Judicial Magistrate Ist Class, Panipat, vide which petitioner is convicted under Sections 279, 337, 338, 304-A of IPC is not on sound footing. Appeal preferred by petitioner against the aforesaid judgment of conviction and order of sentence was challenged before the learned Sessions Court, Panipat and same was also dismissed wrongly vide judgment dated 07.03.2020. Learned Courts below failed to correctly appreciate the evidence led by prosecution before the trial Court. In fact, statements of prosecution witnesses are not reliable and are inconsistent and contradictory. It was for prosecution to prove the guilt of accused beyond a shadow of reasonable doubt, which they have failed to do so. Statement of Bhoop Singh PW2, complainant, is improbable. As per the facts narrated by him, he was coming behind motorcycle No. HR-06P-7757, driven by Sonu, on which Monu was a pillion rider. It is not possible for complainant Bhoop Singh to see what actually happened when the accident took place. Similarly, testimony of Shiv Kumar PW3, who was a pillion rider on the motorcycle of Bhoop Singh, cannot be safely relied upon. There was no rash or negligent driving on the part of present



petitioner while driving Truck No. HR-45A-1963, which was coming from the side of Panipat and going towards Safedon. In fact, Sonu was driving his motorcycle number HR-06P-7757 in a rash and negligent manner, without observing traffic rules and was overtaking a tractor trolley without seeing the truck coming from opposite side at a moderate speed and on its correct side of the road. Petitioner tried to avoid the accident by applying emergency brakes, however, since the truck was loaded with goods, it lost its balance and turned turtle in the ditches adjacent to road. During the course of trial, petitioner-accused had examined Meharbhan, DW-1, who fully supported the aforesaid version and categorically stated that accident had taken place due to rash and negligent driving of the boy who was driving motorcycle number HR-06P-7757. The testimony of defence witness has been wrongly ignored. In the case in hand, no proper investigation was carried out by police. SI Kanwar Singh PW-11 did not try to join any independent witness from public, even though accident had taken place in a populated area. Therefore, without considering the aforesaid facts, petitioner has been wrongly convicted and sentenced by the trial Court and his appeal was wrongly dismissed by learned Sessions Judge, Panipat. It is submitted that revision preferred by petitioner may be accepted and aforesaid judgments be set aside and petitioner deserves acquittal.

10. On the other hand, learned Counsel representing State argued that revision filed by petitioner against two consistent judgments of conviction is without any basis. Prosecution led convincing evidence on record to prove the charge-sheet framed against petitioner. In the case in



whose statement FIR was registered. Similarly, his version is fully supported by Shiv Kumar PW-3, an eyewitness, who was also a pillion rider on the motorcycle of Bhoop Singh PW-2. Apart from this, one of the injured namely Balraj alias Monu also stepped into the witness box as PW-7 to prove the manner in which accident took place. In this case, Balraj alias Monu was seriously injured. His medical record is proved by Dr. Sukhdeep PW-4 and copy of his MLR is Ex. PW-4/A and scan report proved on file by Dr. Archana Gupta PW-5 is Ex. PW-5/B. In the accident, driver of motorcycle namely Santram alias Sonu lost his life. Dr. Raghvender Singh PW-10 has proved his Postmortem Report as Ex. PW-10/B. Investigation carried out by police is proved by SI Kanwar Singh PW-11, the Investigating Officer. Statements of prosecution witnesses remained consistent. Accident had taken place due to rash and negligent driving of petitioner, who was driving the offending Truck No. HR-45A-1963. In fact, he had hit motorcycle driven by Santram alias Sonu, on which Balraj alias Monu was a pillion rider, by coming on the wrong side of road. Therefore, criminal revision filed by petitioner deserves dismissal.

11. I have considered the arguments and have gone through the record carefully. In the case in hand, occurrence took place on 08.02.2013. FIR is registered on the statement of Bhoop Singh, complainant, who stated that on the day of occurrence, his nephews Sonu and Monu were going towards Panipat on their Bajaj Platina motorcycle No. HR-06P-7757, whereas he along with Shiv Kumar was following on separate motorcycle No. HR-06U-0572. At about 10:00 AM, they reached near Thermal bypass, D.A.V. School area, when the offending Truck No. HR-45A-1963 driven

by petitioner came from the side of Panipat at a high speed, driven rashly



and negligently and hit the motorcycle driven by Sonu by coming on the wrong side of road. The truck dragged the motorcycle along with it towards roadside ditches. In this accident, Sonu who was driving the motorcycle died on the spot, whereas Monu, pillion rider was seriously injured. Accident took place on 08.02.2013 at about 8:00 AM and statement of Bhoop Singh complainant was recorded on the same day at about 11:55 AM, which is Ex.PW-2/A. Therefore, in the case in hand, there is prompt recording of statement of complainant on the basis of which FIR No. 35 dated 08.02.2013 was registered under Sections 279, 337, 338 and 304-A of IPC at Police Station Matlauda, Panipat.

12. In order to prove the accident and manner in which it took place, prosecution has examined Bhoop Singh PW-2, Shiv Kumar pillion rider PW-3 who have fully supported the prosecution version and the manner in which accident took place. Apart from this, one of the injured Balraj alias Monu has also stepped into the witness box as PW-7 to prove the accident. Statements of aforesaid witnesses remained consistent on all material points. Learned Counsel for petitioner failed to point out any material discrepancy in their statements to shatter their credibility. By all means, statement of injured Balraj alias Monu PW-7 cannot be ignored.

13. Learned Counsel for petitioner raised the defence that accident had taken place due to rash and negligent driving of Sonu who was driving the motorcycle. In order to prove this fact, petitioner had examined Meharbhan DW-1 in defence. He in his examination-in-chief categorically stated that accident had taken place due to rash and negligent driving of boys who were driving motorcycle and there was no fault on the part of



claimed that when the accident took place, he was at a distance of about 1-1.5 kila away from the spot. He further stated that it was head-on collision between truck and motorcycle. During further cross-examination, he admitted that he was not joined in investigation carried out by police. He stated that he had gone to police station to give his statement but he cannot tell any particular date. Then he stated that police did not record his statement. Thereafter, he never approached any higher authority to complain regarding conduct of police. Aforesaid facts clearly indicate that version put forward by Meharbhan DW-1 is after thought.

14. As per the facts of case and evidence on record, involvement of offending Truck No. HR-45A-1963 as well as identity of Rajnish as truck driver is not disputed. After the accident, Truck bearing No. HR-45A-1963 along with motorcycle No. HR-06P-7757 were recovered from the spot vide recovery memo Ex. PW-6/A. In order to appreciate the manner in which accident took place, site plan of place of occurrence Ex.PW-11/D is proved by examining Investigating Officer SI Kanwar Singh PW-11. It is a fact that motorcycle make Bajaj Platina bearing No. HR-06P-7757 was going towards Panipat, whereas offending Truck No. HR-45A-1963 was coming from the side of Panipat i.e. opposite direction and was going towards Safedon. Said site plan indicates point-A where the accident had taken place, point-B i.e. *Kaccha* portion/ditches along with the side of road where Truck No. HR-45A-1963 turned turtle along with motorcycle No. HR-06P-7757 and point-C is the spot on road where dead body of Sonu was lying. Site plan clearly depicts that accident took place on the right side of road going from Panipat to Safedo which clearly shows that offending truck came on the wrong side of road and hit the motorcycle



driven by Sonu on which Monu was pillion rider and then it (offending truck) turned turtle in ditches by dragging motorcycle along with it. Aforesaid facts clearly show that accident had taken place due to rash and negligent driving of Truck No. HR-45A-1963, driven by present petitioner.

15. Perusal of judgment of conviction dated 11.02.2019 passed by learned Judicial Magistrate 1st Class, Panipat shows that learned Magistrate has rightly considered all aspects of case and in appeal, again facts and evidence on record were rightly considered and appreciated by learned Sessions Judge, Panipat in the impugned judgment dated 07.03.2020. There is convincing evidence on record to show that due to rash and negligent driving of petitioner while driving offending Truck No. HR-45A-1963, Santram alias Sonu who was driving motorcycle No. HR-06P-7757 lost his life, whereas Balraj alias Monu, pillion rider was seriously injured.

Therefore, judgment of conviction dated 11.02.2019 and order of sentence dated 12.02.2019 passed by learned trial Court does not require any interference and appeal preferred by petitioner was also rightly rejected by learned Sessions Judge, Panipat vide judgment dated 07.03.2020. Consequently, finding no merits in the present criminal revision filed by petitioner – Rajnish, same is, accordingly, dismissed.

16. The petitioner Rajnish, if on bail during the pendency of this criminal revision, is directed to surrender before learned Chief Judicial Magistrate, Panipat within one month from today, failing which learned Chief Judicial Magistrate, Panipat would issue warrants of arrest to secure his presence and send him to jail to undergo the remaining sentence.

Necessary intimation be sent to concerned Court for information and compliance.

17. Pending application(s), if any, also stands disposed of accordingly.

30.09.2024

lalit

(AMARJOT BHATTI)
JUDGE

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