

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2702 of 2013
Date of decision : 23.04.2024
....Petitioner

Dharamveer

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Naveen Sihag, Advocate for
Mr. P.S. Jammu, Advocate for the petitioner.

Mr. Ramesh K. Ambavta, Asstt. Advocate General, Haryana.

PANKAJ JAIN, J. (ORAL)

Petitioner has filed the instant revision petition impugning the judgment dated 21st August, 2013 passed by Additional Sessions Judge, Sirsa whereby appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 28th of January, 2013/ 31st of January, 2013 passed by JMIC, Sirsa stands dismissed.

2. Vide impugned judgment, Ld. Trial Court convicted the petitioner for offences punishable under Section 279, 337, 304-A of IPC in case FIR No.219 dated 3rd of December, 2006 registered at Police Station Ding and sentenced him as under :

Section (IPC)	Imprisonment	Fine (in Rs.)	In default of payment of fine (imprisonment)
279	6 months S.I.	1000/-	15 days S.I.
337	6 months S.I.	500/-	15 days S.I.
304-A	1 year S.I.	1000/-	1 month S.I.

3. As per the case of prosecution, FIR was registered on the statement of one Harkesh who is one of the injured witness to the alleged accident, to the effect that on 2nd of December, 2006 at about 4/4.30 PM he along with his wife and daughter were going to village Kotli. They took lift in the four wheeler driven by accused Dharamveer son of Om Parkash bearing No.MR 39/8473. The accused was drunk and drove the vehicle in rash and negligent manner. He lost control and the vehicle toppled on the road. As a result thereof, wife and daughter of the complainant received multiple injuries while the complainant and other passengers also got injured. Accused fled away from the spot. The injured were taken to the hospital where daughter of the complainant succumbed to the injuries. Resultantly, FIR No.219 dated 3rd of December, 2016 *ibid* came into being.

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 279, 337, 304-A 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 there is no mechanical report available on the case file denying the mechanical fault in the vehicle. In the

absence thereof, rashness and negligence on part of driver of vehicle i.e. the accused stands not proved. The doctor who conducted the Post Mortem Examination of the deceased Priyanka was not examined. As such neither the Post Mortem Report of the deceased can be said to be proved nor exhibited in the evidence. The Investigating Officer of the case did not step into the witness box during the course of trial. Thus the same caused serious prejudice to the rights of accused and is fatal to the case of the prosecution. He further contends that statements of PW1 and PW2 too do not inspire any confidence and rather suffers from material contradictions. 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 both the Courts below have rightly found petitioner guilty of offences punishable under Sections 279, 337 and 304-A IPC. It is a case wherein a precious life was lost in the accident.

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.

Apri 23, 2024		(PANKAJ JAIN)
Dpr		JUDGE
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No