

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-4241-2016

Decided on 01.02.2024

Hans Raj

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Ankur Malik, Advocate for the petitioner

Mr. Pawan Kumar Jhanda, DAG Haryana

Sandeep Moudgil, J.

(1). This petition under Section 401 CrPC has been filed by the petitioner seeking to quash the judgment dated 08.11.2016 passed by learned Additional Sessions Judge, Karnal dismissing the appeal of the petitioner and affirming the judgment dated 13.04.2015 and order of conviction dated 15.04.2015 vide which the petitioner has been convicted and sentenced to undergo simple imprisonment for one year under Section 279 & 304-A IPC.

(2). As per prosecution case, on 25.12.2011 the petitioner drove his truck bearing registration No.HP-34B-3167 rashly, causing accident due to which Jeet Singh received simple injuries and his wife Banto Devi and grandson Jashanpreet Singh died. Thus, the instant FIR was registered.

(3). Learned counsel for the petitioner contended that the impugned judgment and order dated 13.04.2015 and 15.04.2015 passed by the learned trial court as well as the judgment dated 08.11.2016 are against the law and facts. It is submitted that there were several contradictions in the statements of PWs and both the courts below have not taken the true version and statement

into consideration and failed to appreciate their judicial minds inasmuch as all the witnesses have given their different statement.

(4). It is argued that as per the complaint Ex.PW4/A which was made by PW4 Jeet Singh, he has stated that the driver of the offending vehicle fled away from the spot and the statement of Jeet Singh was recorded on 25.12.2011 and the petitioner was arrested on 27.12.2011. He further submitted that no identification parade was got conducted and as such, the link between the accident and the driver could not be proved.

(5). Learned counsel further went on to specify that from the testimonies of the prosecution witnesses, it is clear that PW4 who is the eye witness to the accident also failed to disclose the exact and complete registration No. of the truck as he had revealed in his cross-examination that he cannot read all alphabets of English and merely by stating the digits and that the truck was bearing Himachal registration No. does not prove that the said truck was involved in the accident.

(6). On the other hand, learned State counsel contended that there is no illegality or irregularity in the judgments passed by the courts below as the same are based entirely on the evidence produced by the prosecution. Further, the petitioner was the owner of the offending vehicle and merely denial on his part would not discharge his culpability moreso when he was identified by the complainant before the Court.

(7). Having heard learned counsel for the parties and after going through the judgments passed by both the courts below, this Court is of the considered opinion that no interference is called for by this Court for the reason that the PW4 complainant Jeet Singh has himself identified the petitioner as the

driver of the offending vehicle while he was presented before the trial court and if at all there was any mala fide on the part of the prosecution, nothing has placed on record in support of his grievance before the higher authorities.

(8). This court cannot be oblivious of the fact that the petitioner was owner and driver of the offending truck and due to its rash and negligent driving, Banto Devi and one minor Jashanpreet Singh had lost their lives. Moreover, the complainant is the eye-witness to the incident and has specifically identified and named the petitioner to be the driver of the offending vehicle.

(9). Holding of the Test Identification Parade is not a substantive piece of evidence, yet it may be used for the purpose of corroboration; for believing that a person brought before the Court is the real person involved in the commission of the crime. Notwithstanding that, it cannot be considered, in all cases, a trustworthy evidence on which the conviction of the accused can sustain. It is a rule of prudence which is required to be followed in cases where the accused is not known to the witness or the complainant. This view of mine finds support from the judgment of the Apex Court in **State of H.P. Vs. Lekh Raj AIR 1999 SC 3916.**

(10). Therefore, in view of the above discussion, no ground has been made out for interference by this Court in the judgments passed by both the courts below.

(11). Dismissed.

01.02.2024

V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)
Judge

- Yes/No
Yes/No