

CRR-4669-2016 (O& M)

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249 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-4669-2016 (O & M)
Date of Decision: 14.03.2024

Jaibir Singh

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Parveen Sharma, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the judgment dated 28.04.2016 passed by the Additional Sessions Judge, Karnal whereby the appeal filed against the judgment of conviction and order of sentence dated 04/05.07.2013 passed by the Judicial Magistrate Ist Class, Karnal, has been dismissed.

2. The brief facts of the case are that the complainant-Sanjeet made a complaint to the police that while he and his brother Amit (deceased) were travelling in a bus, the driver of the bus suddenly turned the same at a high speed due to which his brother-Amit fell down on the road and was run over by the rear tyre of the bus causing his death.

3. On conclusion of the investigation, the report under Section 173(2) Cr.P.C. was presented under Sections 279/304-A IPC and on culmination of the Trial, the petitioner came to be convicted and sentenced

vide judgment dated 04/05.07.2013 passed by the Judicial Magistrate Ist Class as under:-

Name of convict	Section	Sentence	Fine imposed	In default of payment
Jaibir Singh	279 IPC	(SI) 03 months	Rs.500/-	(SI) 15 days
	304-A IPC	(RI) 01 year	Rs.1000/-	(SI) one month

4. The petitioner preferred an appeal before the Court of Additional Sessions Judge, Karnal which came to be dismissed vide judgment dated 28.04.2016.

5. The aforementioned judgments are under challenge in the present petition.

6. The learned counsel for the petitioner contends that the Courts below had failed to appreciate that there was no evidence to prove that the petitioner had been driving the vehicle in a rash and negligent manner. No test identification parade was held and the identification of the petitioner for the first time in Court was valueless. No independent witness was joined by the prosecution despite the place of incident being a public place. The defence version as set-up in the statement under Section 313 Cr.P.C. had not been considered in its proper perspective. He, therefore, contends that the judgments of conviction were liable to be set aside and the petitioner ought to be acquitted of the charges framed against him.

7. The learned counsel for the State, on the other hand, contends that the petitioner was duly named by the complainant-Sanjeet (PW-2). The vehicle number was also disclosed by the complainant. As the identity of the petitioner was not disputed, the question of a test identification parade never arose. The photographs also clearly revealed the fact that the death

had been caused on account of the rash and negligent driving on the part of the driver/petitioner Jaibir Singh. The post-mortem report also bore testimony to the fact that the deceased had suffered serious injuries leading to his death on account of the rash and negligent driving on the part of the petitioner. He, therefore, contends that the judgments sought to be challenged could not be faulted and the present petition was liable to be dismissed.

8. I have heard the learned counsel for the parties.

9. A perusal of the testimony of PW-2/Sanjeet (complainant) would show that he has clearly stated that on 24.01.2009 he and his brother-Amit (deceased) were travelling in a private bus bearing No.HR/45A/1671. On account of the rash and negligent driving of the petitioner, Amit fell down from the bus and was crushed under the rear tyre of the bus leading to his death. The name of the petitioner and the vehicle number are duly mentioned in the FIR. Once the identification of the petitioner and the vehicle has been established, the question of a test identification parade does not arise. Further, the post-mortem conducted by PW-1/Dr. Munish Paruthi and the photographs of the place of the occurrence also clearly establish that the deceased suffered serious injuries leading to his death on account of the rash and negligent driving of the petitioner.

10. In view of the above discussion, I find no reason to interfere with the well-reasoned judgments of the Trial Court and the Lower Appellate Court. Therefore, the present revision petition stands dismissed.

11. As regards the imposition of the sentence, it may be relevant to mention here that the occurrence pertains to the year 2009 and almost 15 years have elapsed since then. A perusal of the custody certificate dated

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12.03.2024 would reveal that the petitioner is a first-time offender with no other case registered against him. He has undergone total custody of 10 months and 11 days of his substantive sentence of 01 year. Therefore, while upholding the judgment of conviction, I deem it appropriate to modify the sentence and reduce it to the period (10 months 11 days) already undergone by him.

(JASJIT SINGH BEDI)
JUDGE

March 14, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No