

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112 CRR-1138-2024 (O&M)
Date of Decision : October 25, 2024

BALWAN -PETITIONER

V/S

STATE OF HARYANA -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Ajay Vijarana, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant revision petition, the petitioner assails the verdict of conviction dated 03.08.2021 and the consequent thereto order of sentence dated 05.08.2021, as became rendered by the Additional Chief Judicial Magistrate, Bhiwani, wherethrough, in respect of FIR No.180 dated 16.03.2015, registered under Sections 279, 337, 338, 304-A of the IPC, at P.S. Sadar Bhiwani, he has been convicted for offence punishable under Sections 279, 337, 338 and 304-A of the IPC and has been sentenced in the following manner:-

Under Section	Sentence	Fine	In default of payment of fine
279 of the IPC	R.I. for three months	Nil	-
304-A of the IPC	R.I. for one year	Nil	-
337 of the IPC	R.I. for three months	Nil	-
338 of the IPC	R.I. for six months	Nil	-

2. In addition, the petitioner also assails the verdict dated 13.05.2024, wherethrough, his statutory appeal preferred against the

verdict of conviction and order of sentence (supra) has been dismissed by the learned Additional Sessions Judge, Bhiwani.

3. The brief facts of the case at hand, as culled out by the learned Additional Sessions Judge, Bhiwani, in paragraph No.2 of its verdict dated 13.05.2024, are extracted hereinafter:-

“2. Brief facts of the case of the prosecution are that on 16.03.2015, complainant Shalu got recorded her statement to the police that today she had gone Tosham on motor-cycle No. HR-16M-8725 and at about 03:30/04:00PM, she and her husband were coming back to Bhiwani on the above-said motor-cycle. At about 04:45PM, when they reached near Chaudhary Brick-kiln ahead of village Bapora then a pick-up Dala vehicle bearing registration No. HR-61A-9126 came from the side of Bhiwani, being driven by driver in rash and negligent manner and without blowing horn. Her husband took the motor-cycle slowly on his own side but driver of pick-up hit his vehicle in their motor-cycle due to which they fell on road at about 8/10 steps far away and she sustained injuries. In this accident, her husband Daya Kishan succumbed at the spot due to injuries of accident. Passers by arranged ambulance and rushed them to Government Hospital, Bhiwani where she was given medical treatment and her husband was declared dead. Complainant has further stated that driver of pick-up Dala vehicle No. HR 61A-9126 left his vehicle at the spot and fled away. Complainant prayed for taking legal action against the accused.”

4. In order to bring home the guilt of the accused/petitioner, the prosecution examined as many as 12 witnesses. The star witnesses of the prosecution were PW6 Shripal Singh (eyewitness) and PW12 Shalu (complainant) and the prosecution case principally revolved around their testimonies.

5. The prime argument addressed by the learned counsel for the petitioner, in his assailing the conviction of the petitioner, hinges upon a claim that, since both the star witnesses (supra) of the prosecution did not have any prior acquaintance with the petitioner/accused, therefore, the conducting of a test identification parade was of dire necessity, which admittedly has not been conducted. Resultantly, the identification of the petitioner/accused by the star witnesses (supra), and that too approx. after 3/4 years post the occurrence, pales into insignificance.

6. Finally, the learned counsel for the petitioner argues that when the learned trial Court and the learned appellate court concerned have not considered the above aspects, besides have not appreciated the evidence in its right perspective, therefore, the impugned verdict of conviction and order of sentence (supra) warrant interference.

7. This Court has heard the submissions made by the learned counsel for the petitioner and also perused the record, however, does not find any illegality or perversity in the verdicts rendered by the learned courts below.

8. The principal reason for forming the above inference ensues from the fact that, PW12 Shalu (complainant), who was a pillion rider with her husband, witnessed the unfortunate accident, which occurred on 16.03.2015, and wherein, she suffered a great loss in the shape of demise of her husband. Therefore, ordinarily when the face of a wrongdoer associated with a traumatic event, like the above accident, becomes deeply etched in the sufferer's memory, resultantly the emotional impact

thereof makes it difficult for the sufferer to forget the face/identity of the wrongdoer. Consequently, the argument of the learned counsel for the petitioner that, identification of the petitioner/accused by PW12 Shalu (complainant) after about 3/4 years of the date of occurrence, is of no significance, inasmuch as, the face/identity of the wrongdoer, whose act resulted in the death of her husband, became etched in her memory and she specifically identified the petitioner/accused as driver of the offending vehicle.

9. Moreover, PW12 Shalu (complainant) was subjected to lengthy cross-examination, however, nothing material, thus eroding the veracity and probative value of her ocular testimony, could be extracted by the defence. The testimony of PW12 Shalu (complainant) was corroborated by PW6 Shripal Singh, who in his cross-examination, categorically deposed that he saw the accused fleeing from spot after committing the accident.

10. In summa, the instant revision petition is **dismissed**, being devoid of merits. The impugned verdict of conviction and order of sentence (supra) are upheld.

11. Pending application(s) stand disposed of accordingly.

October 25, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No