

Neutral Citation No.2024:PHHC:008938
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.1467 of 2023 (O&M)
Reserved on: 20.01.2024
Pronounced on: 23.01.2024

Satbir Singh
Vs.
State of Haryana

.....Petitioner
.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Ramnish Puri, Advocate for the applicant- petitioner.

Mr. Sumit Jain, Addl. AG, Haryana.

DEEPAK GUPTA, J.

This Criminal Revision under Section 397 read with Section 482 Cr.P.C has been filed against conviction recorded by the trial Court and as affirmed by the Appellate Court.

2. Petitioner was tried by the Court of learned Judicial Magistrate Ist Class, Narwana, District Jind (Haryana) in a case titled “State Vs. Satbir Singh (CNR No.HRJNA0-000340-2014) arising out of FIR No.79 dated 18.03.2014 registered at Police Station City Narwana under Sections 279, 337, 338 and 304A IPC. Vide judgment dated 25.04.2018, he has been convicted for all the afore-said offences and vide a separate order dated 26.04.2018, he was sentenced as under:-

Under Sections	Imprisonment of Sentence	Fine	Imprisonment in default of fine
279 IPC	6 months rigorous imprisonment	1000/-	15 days rigorous imprisonment
337 IPC	6 months rigorous imprisonment	500/-	15 days rigorous imprisonment
338 IPC	2 years rigorous imprisonment	1000/-	Two month rigorous imprisonment
304A IPC	2 years rigorous imprisonment	2,000/-	Two month rigorous imprisonment

3. Against the afore-said judgment of conviction and order of sentence, petitioner filed appeal before the Court of Sessions. That appeal bearing CRA No.93 of 2018/2021 titled “Satbir Singh Vs. State of Haryana”, has been dismissed by the Court of learned Additional Sessions Judge on 15.05.2023; and hence this revision.

4. Prosecution case is that on 18.03.2014, Satbir Singh along with his family was returning to his village from Narwana at about 02:30 PM, riding his motor-cycle No.HR-08L-8885. His wife Mamit, daughter Anuj and son Sumit @ Goli were sitting behind him. The said motor-cycle being driven by Satbir was being followed by complainant Mahabir and his brother Dharam Singh, who were also returning to Village on separate motor-cycle behind Satbir. As Satbir reached at Ganesh Rice Mills, a Haryana Roadways Bus bearing registration No.HR64-5333 came from the side of Hisar, being driven at high speed and in rash and negligent manner and hit the motor-cycle of Satbir from backside, resulting in on the spot death of Mamit and Anuj; and injuries to Satbir and Sumit. Injured were taken to Government Hospital, Narwana. FIR was registered on the statement of Mahabir. As per prosecution, it is the petitioner-accused, who was driving the offending bus at the relevant time, who had fled away from the spot after leaving the bus at the spot. Necessary investigation was carried out. The inquest & PME proceedings were conducted. Statements of witnesses were recorded. The vehicles involved in the accident were got mechanically examined.

5. After completion of investigation, final report under Section 173 Cr.P.C was filed. Accused- petitioner was charge-sheeted, to which he pleaded guilty and claimed trial. Prosecution examined as many as 14 witnesses to prove its allegations. Statement of accused- petitioner under Section 313 Cr.P.C was

recorded, confronting him with all the incriminating evidence appearing against him but he controverted the same and pleaded false implication. However, despite providing opportunity, accused- petitioner did not lead any evidence in defence. After hearing both the sides, trial Court convicted the petitioner and the said conviction has been upheld by the Appellate Court, as per the details given earlier.

6. It is contended by learned counsel for the petitioner that the trial Court as well as Appellate Court fell in error in recording the conviction inasmuch as it was overlooked that the bike being driven by Satbir was overloaded with four persons and that it is due to loss of balance that the accident occurred. Learned counsel contends further that as per the mechanical examination reports, no scratch was found on the bus, whereas motor-cycle had scratch mark on the silencer and another small scratch mark near the Headlight, which indicate that there was no collision between the bus and the motor-cycle. Still further, it is contended that presence of complainant Mahabir at the spot is highly doubtful and that his testimony cannot be relied upon. Besides, he did not identify the accused-petitioner to be the driver of the offending bus. It is also contended that Vakil Khan, the conductor of the bus was not examined. Not only this, no test identification parade was conducted so as to establish the identity of the accused-petitioner as its driver. With these submissions, prayer is made for setting aside the impugned judgment of conviction.

7. In the alternative, learned counsel for the petitioner also contends that if the conviction is maintained, the Court should take a lenient view and decrease the sentence, as this is petitioner's first offence and imprisonment for two years imposed by the trial Court and upheld by the Appellate Court, is quite excessive.

Learned counsel also points out that petitioner has already undergone custody period of 08 months and 19 days and so, in these circumstances, he may be sentenced for the imprisonment for the period already undergone by him.

8. Opposing all the afore-said contentions, learned State Counsel submits that the trial Court has taken into consideration all the relevant factors while recording the conviction. All the points as raised in this revision were duly considered by the Court of Appeal and that there is no justification for interfering in the well-reasoned judgments of the lower Courts. Learned State Counsel further contends that though there is no reason to doubt the presence of complainant Mahabir at the spot but even if his testimony is ignored, the prosecution case is fully proved by testimony of two injured witnesses, namely, Satbir and Sumit, besides that of Dharam Singh. Learned State Counsel also submits that accident occurred at about 02:30 PM, i.e. in broad day light. The identity of the accused has been established by the injured witnesses. Besides, the offending bus belongs to Haryana Roadways and the duty register i.e. Ex.PW3/X is well proved on record revealing that it is the petitioner – accused, who was driving the offending vehicle at the relevant time. Learned State Counsel further submits that rash and negligent driving of the petitioner has taken away two precious lives and, therefore, there is no justification to decrease the sentence. With all these submissions, prayer is made for dismissal of this revision.

9. I have considered the submissions of both the sides and have perused the record.

10. It is important to notice that revisional Courts do not act as Appellate Court and their interference is limited to correct the errors of jurisdiction or procedural impropriety, rather than re-evaluating the evidence on merits of the

case. The revisional Court can interfere only if it finds that decision of the Subordinate Court is illegal, improper or incorrect or there has been a substantial error or defect in the exercise of jurisdiction. The revisional power is discretionary and this Court may choose not to intervene, if it is found that no substantial error or defect is there in the decision of the Subordinate Court.

11. Having noticed the legal position regarding the revisional power of this Court, it is noticed that in the present case, the allegations of prosecution are fully supported by the testimony of PW8 Satbir (injured), PW7 Sumit (injured), PW6 Dharam Singh (eye witness) and PW4 Mahabir (complainant – eye witness). Testimony of all these witnesses is quite consistent that the Haryana Roadways Bus hit motor-cycle of Satbir from backside, which in itself shows the rash and negligent driving on the part of its driver, who did not maintain the proper distance between the offending bus and the motor-cycle of Satbir. Learned State Counsel has rightly drawn attention towards the observations made by the Appellate Court that no suggestion whatsoever was given to PW Satbir, who was driving the motor-cycle at the relevant time that he lost balance of the motor-cycle and fell down. It has also been pointed out that though the four persons were riding the motor-cycle but two of them, namely, Anuj and Sumit were children. Besides, no evidence has been led to the effect that accident occurred due to loss of balance of the motor-cycle on the part of Satbir. All the prosecution witnesses have categorically denied the said suggestion.

12. As far as the identity of the petitioner – accused as driver of the offending bus is concerned, though this point is not raised by learned counsel for the petitioner before this Court but has been duly dealt with by the trial Court as well as Appellate Court and it has been noticed that apart from the testimony of

PW6 Dharam Singh, who categorically deposed that it is the accused- petitioner, who was driving the offending bus, the said fact is substantiated by the duty register Ex.PW3/X, which was duly proved in the trial.

13. The contention of learned counsel for the petitioner to the effect that as per the mechanical examination report, no scratch was found in the front portion of the bus indicating that the bus did not collide with the motor-cycle, has also no merit. As per the mechanical examination of the motor-cycle of Satbir, there was one scratch mark on its silencer and another small scratch mark near the headlight. The offending bus was coming from behind and even if it lightly touched the motor-cycle, that was sufficient to imbalance the motor-cycle being driven by Satbir. It is not necessary in these circumstances that any scratch will be put on any front portion of the bus. As such, mere absence of any scratch on the bus cannot be indicative of the fact that the bus did not collide with the motor-cycle at all. The eye witness account in this regard to the effect that offending bus hit the motor-cycle from behind, cannot be ignored.

14. Further, learned Appellate Court has rightly observed that even if presence of PW4 Mahabir is assumed to be doubtful at the spot, though there is no reason to do so, still the prosecution case is duly proved by the testimony of eye witnesses Satbir and Sumit besides another eye witness Dharam Singh. Non-examination of conductor of the bus, Vakil Khan is not at all material. It is the quality of evidence, which is important and not the quantity.

15. Having considered all the submissions and gone through the impugned judgments, this Court does not find any illegality or irregularity, in the well-reasoned judgment recorded by the trial Court and as affirmed by the Appellate Court. As such, this Court finds no merit in the present revision against

conviction.

16. As far as order dated 26.04.2018, regarding quantum of sentence is concerned, the rash and negligent driving of the petitioner has taken two precious human lives. This is a galloping trend in road accidents in India. The victims and their families face devastating consequences. In this case, it is also worth noting that after causing the accident, the petitioner left behind the bus and fled away, without making any effort to help the injured.

17. In the afore-said facts and circumstances, no leniency is warranted. The sentence of two years imprisonment as imposed by the trial Court and upheld by the Sessions Court, is not considered to be excessive. Finding no merit in the present revision, the same is dismissed.

January 23, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No