

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

115

CRR-1201-2024 (O&M)
DECIDED ON :12.06.2024

ISHWAR SINGH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: - Mr. Yashdeep singh , Advocate,
for the petitioner.

Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J

1. The present revision petition has been preferred against the impugned judgment dated 28.05.2024 passed by Additional Sessions Judge, Bhiwani dismissing the appeal filed by the petitioner against the judgment of conviction and the order of sentence dated 07.05.2018 passed by SDJM, Bhiwani in FIR No.170 dated 08.11.2014 registered under Sections 279, 337 and 338 of the Indian Penal Code, 1860 (for short 'IPC') at Police Station Behl.

2. The petitioner was sentenced as under:-

Under Section Sentence

279 IPC	To undergo simple imprisonment for a period of six months and to pay a fine of Rs.1000/-.
337 IPC	To undergo simple imprisonment for a period of six months and to pay a fine of Rs.500/-.

338 IPC To undergo simple imprisonment for a period of two years and to pay a fine of Rs.1000/-. In default of payment of fine, the convict shall be liable to undergo further simple imprisonment for a period of three months.

2. The brief facts of the present case are that Suresh Kumar recorded his statement on 08.11.2014 alleges that on 05.11.2014, he and his brother Kapoor Singh were, in their Bolero bearing registration No. UPD-00-3(T)-9468, heading to their sister's village Garwa. Near Ishwarwal crossing, a Haryana Roadways Bus bearing registration No. HR-61-4442 being driven by its driver in a rash and negligent manner collided with their vehicle. As a result thereof, Kapoor was severely injured whereas, Suresh sustained minor injuries. The driver of the bus fled away from the spot.

3. On finding a *prima facie* case for the commission of offences under Sections 279, 337 and 338 of IPC, charges were framed accordingly, to which he pleaded not guilty and claimed trial and was ultimately convicted.

4. Learned counsel for the petitioner has contended that the present case was registered with an ulterior motive to grab the compensation from the insurance company. There is an unexplained delay of 2-3 days in reporting the matter to the police, due to which material improvements and contradictions have occurred in the testimonies of prime witnesses. It is further contended that both the Courts below have completely ignored the testimony of PW-2, Medical Officer, GH, Hisar wherein, he has categorically admitted that injured Kapoor Singh was brought with history of roadside accident and he was fully conscious and oriented. The trial Court has failed to appreciate the testimony of PW-9

Gulab Singh, who has been stated to be an eye witness to the occurrence. He stated that he was travelling in the same bus but in his examination-in-chief he nowhere stated that he was called by his brother Suresh. Learned trial Court has wrongly observed that Gulab Singh-PW-9 who is the eye witness in the present case and also identified the accused-petitioner. As per the version of Kapoor Singh, injured (PW-10), he became unconscious after the said collision of vehicles and became conscious after two days of the said incident, therefore, cannot be said to be the eye witness of the accident.

5. No other argument has been raised by learned counsel for the petitioner.

6. Considering the testimony of Suresh Kumar-PW-4 and Gulab Singh-PW-9 wherein, they have clearly identified the accused as the person responsible for the accident. They have categorically stated that the accused-petitioner was driving the offending bus in a very rash and negligent manner, which made the jeep being dragged into the fields due to which the complainant and injured got severely injuries, which is sufficient for this Court to infer that the presence and the role of the accused petitioner is established in the present case.

Regarding the omission of the accused name in the FIR is concerned it is not a legal requirement for the complainant to know the accused name prior to the lodging of the report. The identity of the accused is not in dispute as PW-3 has proved the duty slip Ex.P-3/A showing the accused was assigned to the driving the offending bus on the day of

7. In view of the discussions made hereinabove, this Court does not find any merit in the present revision petition. As such the same is dismissed being devoid of any merits.

12.06.2024
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(SANDEEP MOUDGIL)
JUDGE

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

Yes
No