

2024:PHHC:163064



233 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1435-2024 (O&M)
DECIDED ON: 18.10.2024

RAM LALIT

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

Mr. Malkiat Singh, DAG, Punjab.

SANDEEP MOUDGIL, J

1. The present revision petition has been preferred against the impugned judgment dated 06.07.2024 passed by learned Additional Sessions Judge, Patiala vide which the judgment and order dated 29.02.2020 passed by Judicial Magistrate, Ist Class, Chandigarh have been affirmed, whereby the petitioner has been sentenced as under:-

Sr. No.	Offence	Sentence awarded
1.	Under Section 279 IPC	To undergo RI for a period of six months along-with fine of Rs.100/-; in default of payment of fine, to further undergo RI for one week.
2.	Under Section 304-A IPC	To undergo RI for a period of two years along-with fine of Rs.100/-; in default of payment of fine, to further undergo RI for one month.

2. The present case was registered on the basis of statement made by complainant-Gurbax Singh wherein, he alleged that his niece, Navroop Ghai, and her children, Vandita and Rishav, were traveling on a scooter when a truck, driven by the accused in a rash and negligent manner, struck them. Navroop Ghai died at the spot, while Vandita and Rishav suffered simple injuries. The truck driver took another injured person, Kirna Oberoi, to the hospital, but she died *en-route*. The police investigation led to the arrest of the accused on 15.01.2017, and a challan was presented in court after completing the investigation

3. Learned counsel for the petitioner has argued that no independent witness has been joined except one eye-witness i.e. PW-1 Gurbax Singh and there are major discrepancies in the statement of PW-1, on whose sole statement, the petitioner has been convicted under Sections 279 and 304-IPC and sentenced as above. It is further contended that no identification parade has been conducted.

4. Learned State counsel has supported the judgments passed by both the Courts below and submitted that there is no illegality or perversity the impugned judgments.

5. I have heard learned counsel for the petitioner and gone through the record.

6. The prosecution story hinges on the testimony of key witnesses. PW1 Gurbax Singh, an eyewitness and relative of the victims, recounted the events of 11.01.2017. He stated that his niece Navroop Ghai and her friend Kirna Oberoi were traveling on a scooter when a truck, driven by the accused Ram Lalit in a rash and negligent manner, struck them. The accident resulted in the deaths of Navroop Ghai and Kirna Oberoi, while Navroop's children, Vandita and Rishabh, sustained injuries. Additional witnesses, including PW2 Kushal Singh and PW5 Dr. Charan Kamal, corroborated the events and provided further evidence,

including post-mortem reports, which confirmed the cause of death as accidental. The prosecution has further strengthened its case with additional witnesses. PW3 Harwinder Singh, an RTA Clerk, verified the records of the scooter (PB-11-AZ-890) and the truck (PB-11-BK-4542) involved in the accident. PW4 ASI Angrej Singh testified about registering the FIR, investigating the incident, and taking photographs (Ex. P18-P35). He also created a site plan (Ex. P7) and identified the accused, Ram Lalit, in court. Statement ASI Angrej Singh remained unrebutted as the accused did not cross-examine him. Based on this evidence, it is clear that the prosecution has established its case, proving that the accused actions in driving the vehicle in a rash and negligent manner led to the deaths of Navroop Ghai and Kirna Oberoi, and injured the minor children.

7. As regards the contention of learned counsel for the petitioner that no independent witness was called is concerned, it is common knowledge that no one wishes to testify because they do not wish to have animosity towards the accused. Even so, Gurbax Singh-PW-1, the complainant, had testified in the witness box in accordance with the prosecution's account. Moreover, the defence has thoroughly cross-examined PW-1, but nothing positive for the accused could be gleaned from his statements. That apart, the case of the prosecution cannot be rejected solely on the ground that independent witnesses have not been examined when, on the perusal of the evidence on record the Court finds that the case put forth by the prosecution is trustworthy.

8. This Court is of the considered view that there is no such material contradictions on record, which may cause fatal to the case of the prosecution. The court also believes that some contradictions in the testimony of prosecution witnesses are to be expected over time.

9. Moreover, the petitioner has not proven that the deceased Kirna Oberoi was careless while driving the aforementioned Aactiva scooter and that her reckless and careless driving was the cause of the accident. Furthermore, under Section 313 CrPC, the accused had the duty of proving his plea in his statement; nevertheless, he failed to provide any compelling evidence to support his claim that he had taken all reasonable precautions to avoid the accident in question.

10. The scope of revisional jurisdiction of the Courts has been discussed by Hon'ble Supreme Court in “***State of Kerala vs Puttumana Illath Jathavedan Namboodiri, (1999) 2 SCC 425***” wherein it is held as under:-

“the revisional jurisdiction is one of Supervisory Jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate Jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. On scrutinizing the impugned Judgment of the High Court from the aforesaid stand point, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the respondent by re-appreciating the oral evidence. The High Court also committed further error in not examining several items of evidence relied upon by the Additional Sessions Judge, while confirming the conviction of the respondent. In this view of the matter the impugned Judgment of the High Court is wholly unsustainable in law and we, accordingly set aside the same. The conviction and sentence of the respondent as passed by the Magistrate and affirmed by the Additional Sessions Judge in appeal is confirmed. This appeal is allowed. Bail bonds

furnished stand cancelled. The respondent must surrender to serve the sentence. In view of the order in this appeal, no further order is necessary in SLP(Criminal) No. 1466/94.

11. On perusal of the judgments passed by both the Courts below, this Court is of the considered view that the said judgments are based upon the proper appreciation of the evidence led by the parties. The conviction, as has been culled out by the trial Court which was subsequently upheld by the Appellate Court, cannot be said to be faulty, requiring any interference by this Court.
12. Accordingly, the present criminal revision petition stands declined.
13. Dismissed.

18.10.2024

Sham

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No