

111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2934-2023 (O&M)
Date of decision : 30.01.2024

SIRAJ AHMADPetitioner

Versus

STATE OF HARYANARespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Neeraj Yadav, Advocate
for the petitioner.

PANKAJ JAIN, J. (ORAL)

CRM-1086-2024

This is an application for placing on record translated copy and vernacular of the statement of PW-10 Jugnu marked as Annexure P-1.

For the reasons recorded in the application, the same is allowed. Document marked as Annexure P-1 is taken on record subject to all just exceptions.

CRR-2934-2023 (O&M)

Present revision has been filed under Section 401 Cr.P.C. impugning the judgment passed by Additional Sessions Judge, Rewari dated 4th of December, 2023 affirming the judgment of conviction passed by Judicial Magistrate 1st Class, Rewari dated 6th of September, 2017 whereby the petitioner stands convicted for offences punishable under Sections 279,

338, 304-A of the IPC in case FIR No.485 dated 12th of December, 2013 registered at Police Station City Rewari.

2. The matter relates to motor-vehicular accident that occurred on 12th of December, 2013 leading to death of one Ajay. The FIR was registered on the information made by one Jugnu son of Lala Ram who claimed that on the fateful day at about 8:45 PM while he was coming back to his house after attending a marriage function he saw that the offending vehicle being driven rashly and negligently coming from Delhi side hit the motor-cycle bearing registration No.HR36U-7502 on front side which was coming from opposite direction. He mentioned the number of traula as well as the name of the driver. The petitioner who was named in the FIR as driver of the offending vehicle was booked and put to trial. The complainant appeared as PW-10 and supported the case of the prosecution.

3. After analyzing the evidence threadbare Trial Court found the petitioner guilty and accordingly sentenced him as under :

Under Section	Imprisonment RI	Payment of fine	In default of fine (SI)
279 IPC	3 months	Rs.1000/-	15 days
338 IPC	6 months	Rs.1000/-	30 days
304A IPC	1 year	Rs.2000/-	2 months

4. In appeal preferred by the petitioner the conviction as well as sentence stands maintained.

5. Counsel for the petitioner while assailing the judgments passed by the Courts below submits that there are two eye-witnesses i.e. one the

complainant PW10 Jugnu and the other injured/eye-witness namely Manish (PW9). Manish has not supported the case of the prosecution and the conviction is merely based upon the testimony of PW-10 Jugnu.

6. Counsel for the petitioner has tried to read from the testimony of the complainant to submit that it suffers from material discrepancy as the complainant is explicit in his testimony to submit that he has never seen the accused before the date of testimony. He further submits that in his examination-in-chief, the complainant submits that the accused was present on the spot and has disclosed his name as Shiraj Ahmad son of Iftiar Ahmad whereas in cross-examination the witness submitted that the accused fled away from the spot.

7. Having heard counsel for the petitioner and after going through records of the case, this Court finds that the argument raised by counsel for the petitioner sans merit and is thus rejected.

8. Statement of PW-10 reads as under :

“Stated that I am working in CHC Meerpur. On 12.12.2013 at about 8:30/8:45, I was going to my home after attending a marriage ceremony at Yadav Marriage Palace. When I reached near A1 Chicken Corner, Delhi Road, then I saw a trolly coming from Delhi side in a rash and negligent manner and a motor-cycle was coming from Rewari side bearing No. HR-36U-7502 on which there were two riders and Ajay was driving the bike and Parveen was sitting on back. Trolly hit the motor-cycle. I saw this accident myself. I also noted the number of the trolly which were HR-55C-4041 and also asked the name of the driver who told his name as Shiraj Ahmad S/o Iftiar Ahmad. I took the injured to the Civil Hospital Trauma Centre where Ajay

succumbed to his injuries and Manish was referred. Relatives of the Manish came to Trauma Centre and took him to Aditya Hospital. Police took my statement which was signed by me and is exhibited as Ex. PW10/A. The accused is present in the Court and I have seen him.

XXXXXXX by Sh. Sunil Bhargav Advocate.

Incident took place at about 8-9 P.M. I have seen the trolly from the distance of 2-3 Killas. Accused let the spot leaving the trolly. Police took my statement in the hospital. Police took my statement once. Police never got me met with the accused. I have never seen the accused before today. It is correct that the accused fled away from the spot. Accused fled away from the spot after telling his name and address. It is incorrect that I am giving false evidence.”

9. The contradiction as is being projected indeed is not there.

Complainant Jugnu (PW-10) is explicit to submit that the accused fled away from the spot after telling him his name and address.

10. Law w.r.t. exercise of revisional jurisdiction of this Court in the matters pertaining to offence punishable under Section 304-A IPC already stands settled by the Apex Court in **Raj Kumar vs. State of H.P., (2008) 11**

SCC 76, holding as under :

“In **Duli Chand v. Delhi Administration, (AIR 1975 Supreme Court 1960)**, the scope of invoking jurisdiction of the High Court in criminal revision was examined and it was held in a case involving vehicular accident as follows :

"The question whether the accused was guilty of negligence in driving the bus and death of the deceased was caused due to negligent driving is a question of fact which depends for its determination on appreciation of the evidence. While the

Magistrate, and the Additional Sessions Judge arrived on assessment of the evidence at a concurrent finding of fact that the death of the deceased was caused by negligent driving of bus by the accused and the High Court even though justified in refusing to re-appreciate the evidence reviewed the same in order to justify itself that there was evidence in support of the finding and that the finding was not perverse, came to the conclusion that the evidence established the death of the deceased was caused by the negligent driving of the bus by the accused, the Supreme Court on an appeal under Article 136 refused to interfere."

8. **In State of Orissa v. Nakula Sahu and Ors., (AIR 1979 Supreme Court 663)** it was held that the High Court should not have interfered with the concurrent findings recorded by the Trial Court and the Sessions Judge in exercise of revisional jurisdiction when there was no error of fact or law arrived at by the Trial Court or the Sessions Judge. In **State of Kerala v. Puttamana Illath Jathavedan Namboodiri, 1999(1) RCR (Criminal) 808 : (1999 (2) SCC 452)** it was held that 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 unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice.

9. We find that the trial Court and the Revisional Court have analysed the evidence in detail to come to the conclusion about the guilt of the accused. There is no manifest error in the conclusions or in analyzing the evidence. That being so, the High Court was justified in law in not exercising revisional jurisdiction."

11. In view of above, this Court does not find any reason to

interfere in the judgments passed by the Courts below. Resultantly, the present revision petition is dismissed.

January 30, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No