

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-273-2012 (O&M)

Decided on 04.07.2025

Davinder Kumar

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. RS Athwal, Advocate for the petitioner

Mr. Jastej Singh, Addl. AG Punjab

Sandeep Moudgil, J.

(1). This petition under Section 401 CrPC has been filed by the petitioner seeking to quash the impugned judgment dated 05.12.2011 passed by Addl. Sessions Judge, Jalandhar as well as the judgment and order of sentence dated 26.08.2010 passed by JMIC, Jalandhar vide which the appellant-accused has been convicted under Section 304-A IPC and sentenced to undergo RI for one year and to pay fine of Rs.2000/- in case FIR No.7 dated 2.2.2005 under Sections 279/304-A IPC registered at PS Jalandhar Cantt.

(2). Learned counsel for the petitioner contends that the courts below have failed to consider the fact that the prosecution witnesses along with the deceased had got down from one bus and were crossing the road at PAP T-point to board a bus to Ludhiana. This is a place where all the vehicles move at a very negligible speed and admittedly the said place is not a bus stop or a bus lay-bye. Hence the prosecution witness, i.e. Santokh Singh and his family members were very negligent in off-boarding their bus at a busy junction and trying to cross the main road along with minor children and old parents.

(3). It has been argued that the courts below did not take into account the fact that the prosecution has failed to examine the investigating officer of

the case and the non-examination of Investigating Officer is fatal for the prosecution since he is the sole person to put forth the reason as to why no independent witness has been examined by him and as to why he has not recorded the statement of any of the passengers of the alleged offending bus. It is submitted that the traffic constables are always present at the alleged place of occurrence but no such police official has been examined.

(4). Learned State counsel on the other hand, controverted the stand of the petitioner and submitted that the courts below have rightly convicted the petitioner and their judgments are based on proper appreciation of facts and circumstantial evidence inasmuch as there are overwhelming evidence on record to prove the guilt of the petitioner beyond any shadow of reasonable doubt and he has been rightly convicted and sentenced.

(5). It is the further argument raised by learned State counsel that the examination of Investigating Officer in this case is not material, because without his statement, evidence given by complainant, PW1 Baljit Singh, Mechanic, who had tested the offending vehicle, PW3 Surjit Kaur, eye witness occurrence and PW4 Jagjit Singh, another eye witness of occurrence and PW2 complainant Santokh Singh are sufficient to prove guilt of petitioner-accused.

(6). He further exhorted that otherwise also, if the petitioner was not on steering of Bus No. DL-1-PA-2811, he could prove this fact by getting produced record of duty roster being daily issued by his department and on that score there remains no room of doubt regarding the fact that he had been on steering of the bus at the time of accident but the same was not done by the petitioner.

(7). Heard learned counsel for the parties.

(8). After a thorough examination of the records and consideration of the arguments advanced by the parties, this Court is of the firm view that the prosecution has successfully proved the guilt of the petitioner beyond reasonable doubt. The findings of the courts below, based on the statement of Santokh Singh (PW2) and other evidence, are well-founded and do not warrant interference. The promptness with which the complainant reported the incident, specifying the bus number and details, lends significant credibility to the prosecution's case. This Court finds no merit in the petitioner's contention that Gurdev Singh was not crushed by a Punjab Roadways bus. This defense appears to be an afterthought and lacks substantiation.

(9). Even a decade ago, considering the galloping trend in road accidents in India and its devastating consequences, the Supreme Court in **Dalbir Singh vs. State of Haryana (2000) 5 SCC 82** held that while considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime consideration should be deterrence. A professional driver should not take a chance thinking even if he is convicted, he would be dealt with leniently by the Court. The following principle laid down in the said judgment is very relevant and the same reads as under:-

“When automobiles have become death traps any leniency shown to drivers who are found guilty of rash driving would be at the risk of further escalation of road accidents. All those who are manning the steering of automobiles, particularly professional drivers, must be kept under constant reminders of their duty to adopt utmost care and also of the consequences befalling them in cases of dereliction. One of the most effective ways of keeping such

drivers under mental vigil is to maintain deterrent element in sentencing sphere. Any latitude shown to them in that sphere would tempt them to make driving frivolous and frolic.”

(10). Further the plea raised by the petitioner that it cannot be inferred that the petitioner was driving the bus in a rash and negligent manner was found to be without any merit by the courts below by observing that the oral testimony of all the three witnesses corroborates with each other coupled with the fact that the death of a child aged 7 years was caused at the time of the said accident inasmuch as there is evidence of eye witness that the accident took place due to the rash and negligent driving of the petitioner.

(11). In light of the above, the conviction and sentence awarded by the courts below is upheld. The appeal is dismissed, and the appellant is directed to serve the remainder of the imprisonment awarded by the learned lower court.

(12). Dismissed.

04.07.2025

V.Vishal

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

(Sandeep Moudgil)
Judge

Yes/No
Yes/No