HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Revision Petition No. 172/2004

Pharas Ram S/o Shri Banshidhar, by caste Soni, R/o Village Sami, Tehsil Dataramgarh, District Sikar.
(At present lodged in sub-Jail Suratgarh)

----Petitioner

Versus

State of Rajasthan

----Respondent

For Petitioner(s) : Mr. Vikram Choudhary
For Respondent(s) : Mr. Vikram Rajpurohit, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

29/01/2025

1. The instant revision petition is preferred by the accused petitioner before this Court challenging the judgment of conviction dated 15.05.1999 passed by learned Judicial Magistrate, First Class, Suratgarh in Criminal Case No.388/1998 (292/1994) whereby he was convicted for offence under Sections 379 & 304A of IPC and sentenced him as under:-

Offences for which convicted	**Sentence & Fine**
Under Section 279 of IPC	Six months' simple imprisonment along with a fine of Rs.500/-
Under Section 304A of IPC	One year's simple imprisonment along with a fine of Rs.500/-

2. He preferred an appeal being appeal No. 26/1999 vide the judgment dated 17.03.2004 passed by the learned Additional

Sessions Judge No.2, Sriganganagar, Camp Suratgarh had dismissed his appeal by affirming the judgment of conviction and order of sentence passed by the learned trial Court.

3. I have heard learned counsel for the parties and gone through both the judgments under assail and the record of the case.

4. Bereft of elaborate details, briefly stated the facts of the case are that an accident took place on 26.04.1994 for which a report came to be submitted on behalf of PW-1 Dhanna Ram alleging inter alia that on the fateful day of incident he along with his brother Tiku Ram were going towards the bus stand, suddenly a Roadways bus came there and hit his brother Tiku Ram, as a result of which he sustained injuries and then succumbed to death. After conducting investigation in the matter, the petitioner was charge-sheeted for offence under Sections 279 & 304A of IPC.

5. After commencement of trial, six witnesses came to be produced on behalf of the prosecution and reliance was placed upon six documents. The accused was examined under Section 313 of Cr.P.C., however, no evidence in defence was produced.

6. After hearing learned counsel for the parties, the learned trial Court convicted the accused and sentenced as mentioned above. The appeal preferred by the petitioner has also been dismissed.

7. I have minutely gone through the evidence brought on record on behalf of the prosecution.

8. The law in this regard is no more res integra that in such cases a duty is caste upon the prosecution to prove the case beyond reasonable doubt that on the day of incident, the

petitioner was driving a vehicle and that too with rash and negligence and as a necessary consequence of rash and negligence act, the victim Tiku Ram died. PW-1 Dhanna Ram who reported the matter to the police when examined in the trial though has stated that a bus was coming through in high speed and which was being driven negligently but he did not state that the vehicle was being driven by this petitioner.

9. Admittedly, the petitioner was not previously known to this witness Dhanna Ram but no identification was conducted before filing of the charge-sheet. He was first identified in the Court which has no legal sanctity. PW-2 Bhagirath is turned hostile and stated nothing against the petitioner. PW-3 Dr. Om Prakash Sharma conducted autopsy but he is not related to the principal fact. PW-4 Meharchand turned hostile and did not support the story set out in the charge-sheet. PW-5 Mahadev Singh conducted investigation but he knew nothing about the incident rather he only collected the evidence whatever supplied to him during the Course of the investigation. After minutely going through the evidence brought on record and scrutinizing the same this Court feels that both the Courts below have utterly failed to appreciate the correct, legal and factual aspect of the matter. There was no concrete plausible and cogent evidence on the basis of which the petitioner can be convicted for offence under Sections 279 & 304A of IPC.

10. In view of the above, the revision petition is allowed. The judgment of conviction and order of sentence dated 15.05.1999 passed by learned Judicial Magistrate, First Class, Suratgarh and the judgment of appeal dated 17.03.2004 passed by the learned

Additional Sessions Judge No.2, Sriganganagar, Camp Suratgarh are quashed and set aside. The petitioner is acquitted from the charges and his bail bonds are discharged.

11. Record be sent back.

(FARJAND ALI),J

2-Samvedana/-