
(2010) 11 P&H CK 0396

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 1120 of 2005

Nachhattar Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Nov. 17, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Penal Code, 1860 (IPC) - Section 279, 304A

Citation: (2011) 1 RCR(Civil) 217 : (2011) 1 RCR(Criminal) 217

Hon'ble Judges: A.N. Jindal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

A.N. Jindal, J.

The accused-Petitioner (herein referred as "the accused") was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 3,000/-under Section 304A IPC and rigorous imprisonment for a period of six months and to pay a fine of Rs. 1,000/-under Section 279 IPC by the trial Court vide judgment dated 15.03.2004, which was challenged in appeal and the Appellate Court vide judgment dated 05.05.2005, dismissed the same.

2. The factual matrix of the case is that on 09.10.1998, Mahan Singh alongwith Parminder Singh had come to bus-stand, Rupana for some domestic work. In the meantime, Baldev Singh, his brother was also seen coming at the said bus-stand, where he was running his shop, from the side of village Dhigana, on his scooter bearing registration No. PB-08F-8373. At about 12:00 noon, when they were present in front of the shop of Parminder Singh, they saw that the accused while driving the bus bearing registration No. PB-04D-9945 rashly and negligently came from Muktsar side and rolled over his brother Baldev Singh and damaged his scooter. Resultantly, he died at the spot. After causing the accident, the accused fled away.

On the aforesaid statement, made by Mahan Singh, FIR Ex. PB/II was registered at the police station. Thereafter, Sub Inspector Nachhattar Singh, Investigating Officer, commenced the investigation, prepared the site plan Ex.PW8/B, took the bus and the scooter into possession vide memo Ex.PW2/B and Ex.PW2/C, collected the blood stained earth vide memo Ex.PW2/A, prepared the inquest report Ex.PW8/A and took into possession the registration certificate and driving licence of the accused vide memo Ex.PW8/E. He also got the bus as well as scooter mechanically examined and arrested the accused.

3. Eventually, the challan was presented in the Court. The accused was charged under Sections 279 and 304A IPC to which he pleaded not guilty and opted to contest.

4. The prosecution, in order to substantiate the charges, examined Ikkattar Singh, Mechanic (PW1), complainant Mahan Singh (PW2), Dr. P.N. Girdhar (PW3), Jagsir Singh, Photographer (PW4), Vijay Kumar, Assistant, R.T.A. Office (PW5), Harbhajan Singh, Manager (PW6), Parminder Singh, eye witness (PW7), ASI Kewal Singh (PW8) and Nachhattar Singh, Investigating Officer (PW9).

5. When examined u/s 313 Code of Criminal Procedure , the accused denied all the incriminating circumstances appearing against him and pleaded his false implication. However, he did not lead any defence evidence.

6. The trial ended in conviction. His appeal also failed.

7. Arguments heard. Record perused.

8. The prime arguments, advanced by learned Counsel for the Petitioner, are that actually the number of the bus is PB-04-D-9945 but while appearing in the Court, the complainant Mahan Singh (PW2) has given the number only as 9945, therefore, the presence of Parminder Singh becomes doubtful. No other independent witness has been examined. The identity of the accused is also doubtful.

9. Having given my thoughtful consideration to the aforesaid contentions, it is noticed that both the Courts below have made due observations regarding the rashness and negligence of the accused in driving the vehicle. It was a bus-stand occupied by a lot of people, therefore, duty of the accused was to take precautions in order to save the passers-by and other small vehicle occupants before approaching the bus-stand but he did not do so. The photographs as well as the site plan, proved on the record, indicate the rashness with which the accused drove the bus and after striking against the scooter, he dragged the same to a considerable distance.

10. The question as to how complainant Mahan Singh or Parminder Singh reached the place of occurrence is immaterial when the other facts on the file reveal their presence at the spot. The accident took place at 12:00 noon on 09.10.1998 whereas the FIR was recorded within two hours at the instance of Mahan Singh, resident of

village Dhigana. Had he not been present at the spot then it was difficult for him to name the accused as culprit within such a short span of time. The ruqa in this case was recorded by the Investigating Officer within few minutes of the occurrence and it was completed at 1:30 p.m. which clearly confirms the presence of Mahan Singh (PW2) and Parminder Singh (PW7) at the spot. Mere fact that Mahan Singh did not give the complete number of the bus in his statement before the Court yet the complete number of the bus finds recorded in the ruqa as well as in the FIR. The mistake either may be clerical or due to slip of tongue. As such, while examining the case from another angle, Mahan Singh was not so much educated that he could remember the entire number mere over sometime, the memory stands failed with the passage of time, as such, non-disclosure of the entire number in his statement in Court may be on account of his level of education but that does not belie the prosecution version particularly when he has duly identified the bus in Court. The presence of Parminder Singh (PW7) also cannot be said to be doubtful. He, being the occupant of shop at bus-stand, Rupana, was supposed to be present at that particular time, being a working day. Since it was a day time and the witnesses had the opportunity to see and recognize him, therefore, it is not a case of mistaken identity.

11. No other argument has been raised.

12. Now coming to the quantum of sentence, the day in and day out the menace accidents due to the driving of the vehicles by the untrained, uneducation and ruthless drivers are on the rise. They, while being unmindful of the passengers, pedestrians or small vehicle owners, moving by the side of the road, make them their victims, thus, such people do not deserve any leniency on the quantum of sentence.

13. Resultantly, this petition, being devoid of any merit, is dismissed.