

**(2008) 03 P&H CK 0192**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Revision No. 815 of 1996

Jaswant Singh

APPELLANT

Vs

The State of Punjab

RESPONDENT

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**Date of Decision:** March 26, 2008

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Penal Code, 1860 (IPC) - Section 279, 304A, 337, 338, 427

**Citation:** (2008) 4 RCR(Criminal) 256

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

**Bench:** Single Bench

**Advocate:** Vivek Goyal, for the Appellant; C.S. Brar, D.A.G., for the Respondent

**Final Decision:** Dismissed

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**Judgement**

A.N. Jindal, J.

Six lives were lost and two persons were injured in an accident on 27.9.1989, which led to the prosecution of the accused petitioner Jaswant Singh (hereinafter referred to as the petitioner) under Sections 304-A and 338 of the Indian Penal Code. Consequently, vide judgment dated 10.7.1995 passed by Judicial Magistrate Ist Class, Jalandhar, he was convicted and sentenced to undergo rigorous imprisonment for 1-1/2 years and to pay fine of Rs. 500/- u/s 304-A IPC and to undergo rigorous imprisonment for three months u/s 338 IPC. On appeal, the conviction u/s 338 IPC was set aside, but the conviction and sentence u/s 304-A was maintained. Hence, this petition.

2. The case was registered on the statement of complainant - Surjit Singh (hereinafter referred as the complainant), who stated that on 27.9.1989, his mother Harnam Kaur, brother Balwant Singh, sister-in-law Pritam Kaur, nieces Anrup Kaur, Titu and Kiran, were proceeding to Airport at Delhi in a Maruti van to see-off Balwant Singh. The complainant was following them on his scooter. When the

aforesaid van reached a little short of petrol pump in the area of village Bidipur, the petitioner while driving the bus bearing No. PJG-4630 belonging to the Punjab Roadways Depot, Taran Taran rashly and negligently came from the side of Jalandhar and struck against the van. Thereafter, the bus also hit a motor cycle, coming from behind the van. As a consequence of the accident, Harnam Kaur, Pritam Kaur and Anrup Kaur died on the spot. Balwant Singh and some others, who had sustained injuries were shifted to the Hospital, for medical aid. Later on, the driver of the van Kedar Nath and both the occupants of the motor cycle, namely Gurinderpal Singh and Kuldip Singh also died. On the basis of the aforesaid statement (Ex.PW7/A) made by the complainant, formal FIR (Ex.PW6/B) was registered against the petitioner under Sections 279, 337, 338, 304A and 427 IPC at police station Kartar Pur, pursuant to which, Assistant Sub-Inspector Gurnam Singh came into action. He visited the spot, took into possession Maruti van bearing Reg. No. PAU-7530, bus bearing Reg. No. PJG-4630 and the motor cycle bearing Reg. No. JKQ-4034 vide seizure memos Ex.PW2B, PW2/C and PW2/D, respectively. The seized vehicles were got mechanically tested from Gurdev Singh Mechanic, who gave his test reports Ex.PC, Ex.PB and Ex.PA. On conclusion of the investigation, the challan was presented in the court against the accused.

3. The accused was charged under Sections 304-A and 338 IPC, to which he pleaded not guilty and claimed trial.

4. To substantiate its charges, the prosecution examined Gurdev Singh mechanic (PW1), Pawan Kumar (PW2), Jasbir Singh injured eye-witness (PW3), Umesh Arora photographer (PW4), HC Inderjit Singh (PW5), HC Suba Singh (PW6), Surjit Singh complainant (PW7) and Balwant Singh injured (PW8).

5. When examined u/s 313 of the Code of Criminal Procedure the accused denied all the allegations and pleaded his false implication in the case. He further stated that at the relevant time, the Maruti van followed by a motor cycle came from the side of Amritsar, which were being driven in a rash and negligent manner and in a bid to overtake each other, they lost control and hit the stationary bus, which was lying parked on the wrong side of the road. He also stated that Surjit Singh, Jasbir Singh and Balwant Singh were not present at the time of the accident. However, in defence, no evidence was led.

Arguments heard. Record perused.

6. Jasbir Singh (PW3), Surjit Singh - complainant (PW7) and Balwant Singh (PW8) are the eye-witnesses of the alleged fateful accident. The said three witnesses have consistently deposed about the date, time and the manner of the accident. As a result of the said accident, as many as six lives were lost, which leaves a human being to think about the severity and magnitude of the accident. From the consistent depositions of Jasbir Singh and Balwant Singh, it is evident that both of them were travelling in the Maruti van and they also sustained injuries in the

accident. Record reveals that at the time of the accident, Smt. Harnam Kaur - deceased and others were proceeding from village to Delhi Airport to see off Balwant Singh (PW8), who was to go abroad. So far as the presence of Surjit Singh (PW7) is concerned, he has stated that he was undergoing training in PRTC Jahan Khelan and on the day of the accident, he was on leave for one day as his brother Balwant Singh (PW8) was to go abroad. The complainant has given a faithful account of the prosecution case, credence of which cannot be doubted. He stated on oath that he along with Harnam Kaur, Balwant Singh, Pritam Kaur, Anrup Kaur, Nitu and Kiran was going to Jalandhar. When they reached near the Bidhi Pur Chowk near petrol pump, one bus with a great speed came from Jalandhar side driven by the accused rashly and negligently and struck against the Maruti van and then against the motor cycle. He further stated that in the said accident Harnam Kaur, Pritam Kaur and Anrup Kaur died at the spot, while the injured were got admitted in the Civil Hospital. He also disclosed the number of the ill-fated bus as PJG-4630. Balwant Singh (PW8) also deposed in the same tune. Thus, the facts and circumstances proved on record lead this court to a conclusion that presence of Jasbir Singh, Surjit Singh - complainant and Balwant Singh was also natural on the spot and the same cannot be doubted in any manner.

7. The next argument of the learned counsel for the petitioner that non-examination of the doctors, who conducted the post mortem examination goes to the root of the matter. Here, it needs to be mentioned that no doubt, the prosecution despite several opportunities could not produce the doctors for deposition and its evidence had to be closed by court by order, but non-examination of the said doctors, in no way affect the merits of the prosecution case as the death was due to an accident. The accused has also not denied if the accident did not take place or the casualties did not occur, however, he has stated that the accident did not take place on account of fault on his part. Similarly, the non-examination of the Investigating Officer is also hardly a point in favour of the accused. The eye-witnesses of the accident have been examined and their consistent testimonies, do not leave any space to doubt that the deaths were caused in an accident, which was the result of the rash and negligent driving of the accused. The witnesses have withstood the test of cross-examination. Jasbir Singh (PW3) and Balwant Singh (PW8) are injured eye-witnesses, while, the Investigating Officer was not eye-witness to the occurrence.

8. Apart from it, all the three vehicles involved in the accident were got mechanically checked from Gurdev Singh (PW1), who while appearing in the witness box testified his report Ex.PC qua the bus, wherein, he recorded that at the time of the accident the main leaf of the bus got broken and some other damage was caused to it. The involvement of the bus in the accident is also supported by photographs Ex.PW4/I to PW4/Q (negatives Ex.PW4A to PW4/H) taken by Umesh Arora, photographer, who testified the same while appearing as PW4. Moreover, the involvement of the bus is not in dispute as the accused himself while stating in his statement u/s 313 of the

Code of Criminal Procedure did not dispute the involvement of the said bus in the accident, but tried to mislead the court by stating that the bus was stationed on the wrong side as it had gone out of order. However, the accused has not led any evidence in support of his vague defence. He did not examine any witness or produce any record to establish if the witness had developed a mechanical defect and could not reach the destination in time.

9. The crux of the aforesaid discussion is that the petitioner played havoc with six lives, as the result of the rash and negligent driving of the vehicle by him on a public highway. He being a professional driver was required to be more careful and cautious. The need of the present hour is to sternly deal with such reckless drivers, so as to convey a message to other such persons to be careful and cautious.

10. Resultantly, the revision petition is dismissed. The sentence imposed on the petitioner is already on the lower side, therefore, the same also requires no interference.

11. Copy of the judgment be sent to the concerned Chief Judicial Magistrate to ensure the custody of the petitioner, to undergo the remaining part of his sentence.