

(2008) 03 P&H CK 0215

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 16 of 1996

Gurdial Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: March 17, 2008

Acts Referred:

- Penal Code, 1860 (IPC) - Section 279, 304A

Citation: (2008) 2 RCR(Criminal) 876

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Advocate: P.K. Gupta, for the Appellant; Mehardeep Singh, Assistant Advocate General, Punjab For the State, for the Respondent

Judgement

Kanwaljit Singh Ahluwalia, J.

The present revision petition has been preferred by Gurdial Singh son of Sital Singh resident of Village Gambhirpur, Police Station Anandpur Sahib, District Rupnagar.

2. Petitioner was tried in case FIR No. 52 dated 23.7.1991 registered at Police Station Nangal, under Sections 279 & 304-A IPC. He was convicted and sentenced by the Court of learned Sub Divisional Judicial Magistrate, Anandpur Sahib u/s 304-A IPC to undergo rigorous imprisonment for one year. Aggrieved against the same, petitioner preferred an appeal and the same was dismissed by the Court of learned Additional Sessions Judge, Rupnagar, on 22.12.1995.

3. The case of prosecution is that the petitioner was a driver of truck bearing No. HP-20-1074 and due to the rash and negligent driving of truck at a very high speed on 23.7.1991 at about 8.45 A.M. hit the bicycle of Dasondhi Ram son of Ram Rakha, resident of village Talwara near B.B.M.B. workshop in the locality of crossing of Senior Secondary School, Nangal. Due to the accident, Dasondhi Ram died. Further case of prosecution is that petitioner ran away from the spot leaving his truck there. The occurrence was witnessed by Om Parkash son of Poha Lal and Joginder Pal son

of Sgli Ram. Dasondhi Ram was taken to the BBMB Hospital, where he was declared dead.

4. Pawanjit Singh, Assistant Sub Inspector, reached the hospital where he recorded statement Ex.PB of Om Parkash on the basis of which FIR Ex.PB/2 was recorded.

5. Prosecution has examined Dr. Amarjit Singh as PW.1 and Dr. Sanjay Gulati as PW.7 to prove medical evidence that the accident was the cause of death. PW.7 Dr. Sanjay Gulati had conducted the post mortem and held that due to subdural haemotoma, injury to the brain tissue, fracture of base of the skull, caused bleeding and shock and resultantly Dasondhi Ram died.

6. Faquir Chand, PW.4, is the Mechanic, who gave test report Ex.PE regarding offending truck.

7. Ashwani Kumar, PW.5, had photographed the spot and proved negatives Ex.P5 to Ex.P8 and photographs Ex.P9 to Ex.P16.

8. Head Constable Des Raj, PW.6 and Pawanjit Singh, Assistant Sub Inspector, PW.7 had conducted the investigation.

9. Manoj Kumar, PW.8, was witness of formal nature who proved ownership of the offending truck.

10. Both the Courts below have placed implicit reliance on the testimony of PW.2 Om Parkash and PW.3 Joginderpal and had not accepted the arguments that they should not be relied upon because they are the relatives of the deceased.

11. Learned counsel appearing for the petitioner wanted me to disbelieve these witnesses and intended that their evidence should be re-evaluated and re-appreciated. In a revisional jurisdiction, I cannot tread on the path suggested by learned counsel for the petitioner. Two Courts below have been unanimous and had relied upon the testimony of the witnesses coupled with medical and visual evidence by way of photographs and had come to conclusion that the petitioner is guilty of offence.

12. At this stage, Mr. Gupta has prayed in alternate that the petitioner has undergone two months and 15 days of the sentence. He is aged 52 years and has got two daughters aged about 21 and 19 years and are of marriageable age. He has stated that occurrence in the present case had taken place in the year 1991.

13. Petitioner has suffered protracted trial of about 17 years. No useful purpose will be served by sending the petitioner behind the bars at this stage. Family of the deceased can be compensated. Therefore, taking into account the fact that the petitioner is a sole bread earner of his family and he has undergone about two months and 15 days and has children of marriageable age, sentence of petitioner is reduced to already undergone. However, sentence of fine is enhanced to Rs. 35,000/-. Fine shall be deposited within three months. Non-deposit of fine shall

render the present petition as dismissed and no relief of sentence undergone shall accrue to the petitioner. Amount of compensation, so deposited by the petitioner shall be disbursed to the legal heirs of deceased Dasondhi Ram.

With these observations, the present revision petition is disposed off.