

(2011) 03 P&H CK 0812

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Revision No. 691 of 2011 (O and M)

Sher Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: March 24, 2011

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Penal Code, 1860 (IPC) - Section 279, 289, 304A

Citation: (2011) 3 RCR(Criminal) 194

Hon'ble Judges: Alok Singh, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Alok Singh, J.

Sher Singh-petitioner has filed the present revision petition against judgment/order dated 15.1.2008, passed by Sub Divisional Judicial Magistrate, Anandpur Sahib, by virtue of which he was convicted u/s 279 and 304-A of Indian Penal Code and was sentenced to undergo rigorous imprisonment for one year as well as against judgment dated 10.3.2011, passed by Additional Sessions Judge, Rupnagar, vide which the appeal filed by the petitioner was dismissed.

2. The facts necessary for the disposal of this revision petition are that on 13.3.2001, on receiving an information from the hospital regarding the admission of the injured Dharam Singh and Harmesh Singh, ASI Chanan Ram alongwith his co-officials went to the hospital and moved an application seeking opinion of the doctor regarding their fitness to make the statement. The doctor declared the injured unfit to make the statement. In the hospital he met Nachattar Singh son of Nasib Singh who got recorded the statement to the police to the effect that he is retired from the Army as Subedar and on that day (13.3.2001) he alongwith his wife and Dharma Singh son of Labhu Ram resident of village Samundran P.S.

Garhshankar. and Harmesh Singh son of Dhanpat Rai resident of village Molian, P.S. Garhshankar, Distt. Hoshiarpur on their respective scooters were going to village Mangewal for taking medicines. When they reached parallel to the school of village Mangewal, then it was about 10:30 A.M. Dharam Singh and Harmesh Singh were ahead of him and he was following them. When Dharam Singh turned his scooter towards village Mangewal, then from the side of Nangal a bus of Himachal Roadways bearing No. HP-28-0715 came without blowing horn and hit against the scooter of Dharam Singh. Due to the said impact Dharam Singh and Harmesh Singh fell from the scooter and then bus passed over the scooter. Many other persons gathered at the spot. They, after arranging a private vehicle had taken Dharam Singh and Harmesh Singh to Civil Hospital, Anandpur Sahib where they were under treatment. Bus driver after leaving the bus at the spot fled away from the spot. The present accident took place due to rash and negligent driving of bus driver. After recording the statement ruqa was sent to the police station, on the basis of which formal FIR was registered. Spot was inspected, rough site plan of the place of accident was prepared. The scene of accident was got photographed. Statements of the witnesses were recorded. Mechanical reports of the Bus and Scooter were obtained. Accused was arrested. Both the injured succumbed to their injuries. Inquest reports were prepared. On completion of necessary formalities of the investigation, accused was challaned u/s 279, 304-A IPC and the challan was presented in the Court. The accused was charge sheeted under Sections 289 and 304-A of Indian Penal Code to which he did not plead guilty and claimed trial.

3. In support of its case prosecution examined seven witnesses and thereafter closed its evidence. Statement of accused u/s 313 of the Code of Criminal Procedure was recorded wherein he has denied all the allegations and pleaded his false implication. However, he did not lead any defence evidence. The learned trial Court after hearing both the parties convicted and sentenced the accused-petitioner as indicated above.

4. I have heard the learned counsel for the parties and have gone through the records.

5. Learned counsel for the petitioner argued that the name of the bus driver has not been disclosed by the complainant at the time of his statement before the police. Moreover, the prosecution has not been able to prove that the petitioner was driving bus in question at the time of alleged incident. He further argued that even if it is presumed that an accident had taken place with the bus in question, the same had taken place on account of rashness and negligence of the deceased scooterist, who had taken a sudden turn towards his right side and as such the petitioner cannot be held guilty on account of the accident in question, but both the learned Courts below have not properly appreciated the evidence on record and have wrongly held the petitioner guilty for an offence under Sections 279, 304-A of Indian Penal Code and as such the impugned judgments are liable to be set aside.

6. I have given my thoughtful consideration to the arguments advanced by the learned counsel for the petitioner, but the same does not hold any water. It is not the denying fact that injured Dharam Singh and Harmesh Singh sustained injuries in a motor vehicular accident on 13.3.2001 and they succumbed to the injuries in the hospital. The FIR was lodged on the same day of accident i.e. 13.3.2001 and as such there is no inordinate delay in lodging the FIR. In the FIR, it is specifically mentioned that a bus of Himachal Roadways bearing No. HP-28-0715 came from the Nangal side and hit against the scooter of Dharam Singh on which Harmesh Singh was sitting on the pillion. Due to the accident, both the scooterists fell down on the road and after the accident, the bus driver after leaving the bus fled away from the spot.

7. On being asked by this Court As to whether petitioner was assigned duty by the Himachal Roadways to drive bus in question on 13.3.2001 ? learned counsel for the accused-petitioner replied in affirmative. Moreover, bus in question i.e. HP-28-0715 was found standing on the spot after the accident. This is not the case of the petitioner that on the day of the accident he was not on duty and some other driver was given the bus by the Roadways to drive it. Therefore, in the considered opinion of this Court argument that petitioner was driving the bus was not proved, is totally misconceived and is hereby rejected. Second argument of the learned counsel for the petitioner that deceased has taken sudden right turn so deceased was rash and negligent not the revisionist/accused, is also liable to be rejected for the simple reason if bus driven by accused would be on slow speed accused would have stopped it and would have avoided the accident. Since accused was driving the bus on high speed and was rash and negligent, therefore, he was not able to avoid the accident.

8. Nachattar Singh while appearing in the witness box as PW5 has corroborated the version of the prosecution on all material facts. During the course of investigation, the petitioner was arrested as he was the driver of the bus in question on the day of accident. Both the Courts below have properly appreciated the evidence adduced by the prosecution and held the petitioner guilty for causing accident in question. The learned trial Court has sentenced the petitioner to undergo rigorous imprisonment for one year u/s 304-A of the Indian Penal Code and in the accident, two valuable lives have been cut short due to the rash and negligent driving of the petitioner and in fact the learned Courts below have already dealt with leniency in awarding the sentence to the petitioner. Learned counsel for the petitioner has not been able to point out any illegality or infirmity in the impugned judgments which require interference by this Court.

9. I find no merit in this revision petition and the same is hereby dismissed.