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CRR-2701 of 2019 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-2701 of 2019 (O&M)
Date of Decision: 14.01.2020

Mandeep Singh

...Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Dr. Rau P.S. Girwar, Advocate, for the petitioner.
Mr. N.K. Banka, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through this revision, petitioner has laid challenge to judgment of conviction and order of sentence dated 24.10.2017 of the trial Court, whereby he was convicted and sentenced to undergo rigorous imprisonment for a period of six months under Sections 279 and 427 IPC; rigorous imprisonment for a period of two years and pay fine of ₹1000/- under Section 304-A IPC. In default of payment of fine to undergo simple imprisonment for ten days and judgment dated 04.10.2019 of the lower appellate Court, partly accepting his appeal, whereby he was acquitted under Section 427 IPC, maintaining judgment of conviction and order of sentence of the trial Court under Sections 279 and 304-A IPC.

Briefly, petitioner was tried under Sections 279, 427 and 304-A IPC for causing death of couple, namely, Bharat Bhushan and his wife Ritu Rani while driving his car bearing registration No.PB03AF 7747 in a rash

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and negligent manner on 10.05.2014 .

After holding trial, trial Court held the petitioner guilty and sentenced him in the manner as narrated above vide judgment of conviction and order of sentence dated 24.10.2017.

Being aggrieved, petitioner approached lower appellate Court, who after hearing parties, partly accepted his appeal, maintaining judgment of conviction and order of sentence of the trial Court qua his sentence under Sections 279 and 304-A IPC, while acquitting him under Section 427 IPC vide impugned judgment dated 04.10.2019.

Learned counsel for the petitioner *inter alia* contends that from the very beginning stand of the petitioner was that he was not driving aforesaid offending car. Rather at the time of alleged accident, it was being driven by his father Subhash Chand. Both the Courts below as well as the police on reinvestigation wrongly and illegally held the petitioner guilty for causing the accident in question, ignoring the fact that presence of PW1 Bikramjit Garg alleged eye-witness, was not proved on the spot beyond any shadow of doubt inasmuch as had he been present there, he must have taken his deceased brother and injured sister-in-law to the hospital. Instead, both of them were shifted to hospital by father of the petitioner Subhash Chand as is evident from medical ruqa (Ex.PW7/A) forwarded by medical officer to the police station and police proceedings (Ex.PW7/B). Fitness certificate of the offending car as well as the motorcycle on which the deceased were travelling, was not obtained by the investigating officer, which was mandatorily required under Section 56 of the Motor Vehicles Act (in short 'the Act').



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In support of his contentions, learned counsel relied upon judgment of Jharkhand High Court in ***Shekhar Bhushan Nag v. State of Bihar (now Jharkhand) and others***, 2006(33) R.C.R.(Civil) 366.

On the other hand, learned State counsel refuting above submissions, pleaded legality and validity of judgment of both the Courts below.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmities in the judgments of both the Courts below.

DW1 Subhash Chand, father of the petitioner, categorically admitted accident in question in which two persons, namely, Bharat Bhushan and Ritu Rani lost their lives, but with a rider that he was driving the offending car at the relevant time and not his son (petitioner).

However, it is pertinent to mention here that raising similar grouse, DW1 Subhash Chand moved an application before the concerned Senior Superintendent of Police, whereupon matter was got re-investigated. Again it was found that it was only the petitioner who was driving the offending car and not his father DW1 Subhash Chand. Above story put forth by DW1 Subhash Chand was found false.



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Provisions of Section 56 of the Act judgment cited by learned counsel for the petitioner relates to transport vehicles and not to private vehicles. In the instant case, offending car was a private vehicle. Therefore, no benefit of Section 56 of the Act and judgment referred to above by learned counsel, can be given to the petitioner.

Even otherwise, once the accident was admitted by DW1 Subhash Chand, father of the petitioner, in that eventuality, obtaining fitness certificate of offending car and motorcycle, became insignificant.

Plea of the petitioner that PW8 Inspector Dalbir Singh did not properly re-investigate the matter on the complaint of DW1 Subhash Chand, has no legs to stand inasmuch as petitioner did not lead any evidence or brought any fact on record that PW8 Inspector Dalbir Singh had any axe to grind against the petitioner. Hence, re-investigation conducted by PW8 Inspector Dalbir Singh, which was found in consonance with the investigation conducted by PW7 ASI Malkeet Singh, could not have been dis-believed.

Taking of dead body of Bharat Bhushan and injured Ritu Rani by DW1 Subhash Chand to the hospital does not *ipso fact* prove that he was driving the offending car at the time of accident, more particularly when PW1 Bikramjit Garg, real brother of deceased Bharat Bhushan and brother-in-law of Ritu Rani specifically testified in Court that petitioner was already known to him and at the time of accident he was driving the offending car. Though, petitioner took a stand in his statement under Section 313 Cr.P.C. that prosecution witnesses deposed falsely against him, but again the fact remains that no ill-will or motive of prosecution witnesses for deposing



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against the petitioner was brought on record by the petitioner or his father DW1 Subhash Chand. During re-investigation, PW8 Inspector Dalbir Singh, Investigating Officer, was not bound to call DW1 Subhash Chand on the spot, inasmuch as it was his own wisdom as to in which manner the matter was to be reinvestigated discretely to cull out the truth.

I have gone through judgments of both the Courts below and find no illegality or perversity in the same.

Dismissed.

Learned Chief Judicial Magistrate, Mansa, is directed to issue warrants of arrest of the petitioner in compliance of judgment of the lower appellate Court dated 04.10.2019.

January 14, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No