

---

**(2010) 11 P&H CK 0421**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Criminal Revision No. 1522 of 2005**

Angrej Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

---

**Date of Decision :** 15-11-2010

**Acts Referred:**

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

**Citation :** (2010) 11 P&H CK 0421

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

**Bench :** Single Bench

---

## Judgement

A.N. Jindal, J.—Challenge in this petition is to the judgment dated 13.7.2005 passed by the learned Additional Sessions Judge, Patiala, dismissing the appeal filed by the accused-Petitioner (herein referred as, "the accused") against the judgment dated 7.3.2005 passed by the Chief Judicial Magistrate, Patiala, convicting and sentencing him to undergo rigorous imprisonment for two years and to pay fine of Rs. 2000/-under Section 304A IPC. However, in appeal, the sentence was reduced to 1- 1/2 years.

2. In nutshell, the allegations are that on 26.5.2002, at about 10.30 a.m. the complainant Loka Ram (herein referred as, "the complainant") along with his brother in law Ramu aged about 8 years had gone to the shop of Ramu Scrap Dealer at Sanuri Adda, Patiala. When the complainant was talking with Ramu while standing in front of his shop, in the meantime, the accused while driving canter bearing registration No. PCI 6151 rashly and negligently, struck and ran over his brother in law Ramu, as a result of which he died at the spot. On the basis of the aforesaid statement, formal FIR was registered and the case was investigated.

3. On submission of charge sheet, the accused was charged u/s 279/304A IPC to which he pleaded not guilty and claimed trial.

4. In order to substantiate the charges, the prosecution examined Loka Ram

(PW1), Ramu (PW2), Dr. Harjinder Singh (PW3), HC Sarup Singh (PW4), HC Piara Singh (PW5) and Nasib Chand (PW6).

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 in the case. In defence, he examined Raur Singh (DW1) and Jeon Singh (DW2).

6. The trial ended in conviction. His appeal also failed with certain modification in the sentence.

7. Arguments heard. Record perused.

8. It has not been disputed by the learned Counsel for both the parties that though the accused took the specific plea in his statement u/s 313 Code of Criminal Procedure and examined two witnesses namely Raur Singh (DW1) and Jeon Singh (DW2) in order to prove his defence plea, but the courts below have not taken note of the same and rather mentioned that the accused did not lead any evidence in defence, therefore, the judgment is rendered perverse.

9. Having given my thoughtful consideration to the aforesaid arguments, it may be observed that the accused while answering to the question in his statement u/s 313 Code of Criminal Procedure has stated as under:

I am innocent. I did not commit any accident. The canter owner falsely introduced his name as accused. He had also moved an application to the Senior Superintendent of Police but the same has not so far been decided.

10. He has also examined Raur Singh (DW1) and Jeon Singh (DW2) and proved on record application Ex.D-1 but the court while overlooking the aforesaid plea, the evidence oral as well as documentary the court has passed this judgment which amounts to passing of the judgment by overlooking the defence resulting into serious prejudice to the accused and rendering the judgment passed by both the courts below as perverse warranting interference by this Court.

11. In the wake of aforesaid discussions, I accept the revision petition, set aside the impugned judgment and remit the case back to the trial court to decide the case afresh after taking note of the aforesaid evidence and documents.

12. Parties are directed to appear before the trial court on 20.12.2010.