
(2018) 01 DEL CK 0226

In the Delhi High Court

Case No : Criminal Revision Petition No. 11 Of 2018, Civil Miscellaneous Bail No. 23 Of 2018

Chand Singh

APPELLANT

Vs

State (Nct Of Delhi)

RESPONDENT

Date of Decision : 05-01-2018

Acts Referred:

Indian Penal Code, 1860 — Section 279, 304A

Citation : (2018) 01 DEL CK 0226

Hon'ble Judges : S.P.Garg, J

Bench : Single Bench

Advocate : B.R.Kaushik, Amit Chadh

Final Decision : Dismissed

Judgement

S.P.Garg, J

1. Present revision petition has been preferred by the petitioner-Chand Singh to impugn a judgment dated 20.11.2017 of learned Additional Sessions Judge in CrI.A.No.305/2017 whereby the conviction and sentence recorded by the learned Metropolitan Magistrate vide orders dated 05.08.2017 and 09.08.2017 were upheld. The petitioner was convicted for commission of offence punishable under Sections 279/304 A IPC in Case FIR No.205/06 under Section 279/304-A IPC registered at Police Station Najafgarh and was sentenced to undergo Rigorous Imprisonment for two years with fine.

The Appellate Court modified the sentence order and the substantive sentence was reduced to one year.

2. I have heard the learned counsel for the petitioner and have examined the file. It was urged that the trial court did not appreciate the evidence in its true perspective. The factum of receipt of compensation of ` 11,00,000/- by the legal heirs of the victim was not considered. The victim had sustained injuries due to his own negligence and the accident was not caused by the petitioner's truck.

3. On scanning the testimonies of PW-1 (Manoj Kumar) and PW-2 (Arjun Singh Thapa), it stands established that the accident was caused due to rash and negligent driving of truck No.HR-63A-5054 being driven by the petitioner. PW-1 (Manoj Kumar) specifically deposed that the truck driver was driving the vehicle at a fast speed and in a wrong manner and the accident took place due to his negligence. He identified the petitioner to be the driver of the vehicle. PW-2 (Arjun Singh Thapa) too implicated the truck driver to be the perpetrator of the crime. Of course, the witness was unable to identify the petitioner to be the driver of the truck. In the cross-examination by the learned Additional Public Prosecutor, he admitted that the truck driver was at fault; he came from behind at a high speed in a rash and negligent manner and hit the cycle of the victim from behind. Both these witnesses were cross-examined. However, no serious infirmity has emerged to disbelieve their version. Their presence at the spot has not been denied. Being the victim's colleague going on duty at BSF camp, their presence at the spot was natural and probable. The photographs taken on record clearly established that the truck was being driven by the petitioner and the accident was caused by the truck as the victim was crushed by the real wheel of the truck. Not only that, the deceased was dragged for 5-10 meters after the accident. It shows that the petitioner was unable to stop the truck due to its high speed even after hitting the victim from behind. The impact of the injuries was such that the deceased suffered fatal injuries and died at the spot. Apparently, the petitioner did not take reasonable care while driving the vehicle at a high speed of 70 kmph. Nothing has come on record to show if any precautions were taken by the petitioner while overtaking the deceased who was going on the cycle. Both the courts below have dealt with all the contentions minutely in the impugned judgment. The concurrent findings of the courts below based upon fair appreciation of the evidence deserve no intervention.

4. The appellate court has already modified the substantive sentence by altering it from two years to one year. No further leniency is called for.

5. The revision petition being unmerited is dismissed in limini. All pending application(s) stand disposed of.

6. Copy of the order be sent to the court concerned for information.