

**Gurdev Singh Vs. State**

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**Court :** Delhi

**Decided On :** Mar-22-2010

**Judge :** S.L. Bhayana, J.

**Acts :** Indian Penal Code (IPC) - Sections 279 and 338; ;Code of Criminal Procedure (CrPC) - Section 313

**Appeal No. :** Crl. Rev. P. 591/2007

**Appellant :** Gurdev Singh

**Respondent :** State

**Advocate for Def. :** Naveen Sharma, Adv. and; Satya Pal Singh, Inspector

**Advocate for Pet/Ap. :** Usman Chaudhary, Adv.

**Disposition :** Petition dismissed

**Judgement :**

**S.L. Bhayana, J.**

1. This revision petition has been filed by the petitioner against the impugned order dated 2.7.2007 whereby first appellate Court has dismissed the appeal filed by the petitioner.

2. The brief facts of the case are that the appellant was driving a truck No. HR 38 BG 0127 in a rash and negligent manner and while so driving at about 7.45 a.m. in front of Om Can Handicrafts, Mehrauli Mahipalpur Road, Masood Pur, New Delhi, he hit against master Rinku, aged about 7 years who was crossing the road at that time. Both the legs of Rinku got damaged in the said accident. His right leg was amputated below the knee and the other leg was also damaged which had to be amputated later on. Charge Under Section 279/338 IPC was framed against the accused on 25.5.1999 to which the appellant pleaded not guilty and claimed trial. Prosecution has examined as many as seven witnesses.

3. I have gone through the statements of the witnesses. PW-6, Parvesh Massi, is the star witness of the prosecution in this case. In his statement he has deposed that on 14.9.1998 at about 7.30 am. He was going to drop his son Rinku to his school. When they reached at Mehrauli Road, one truck No. HR-38-BG-0127 which was driven at a very high speed came from the side of Mehrauli and caused the accident of his son who was trying to cross the road. It had struck against the child at that time when his child had already crossed the road and he was at the other side of the road when the child was hit by the said truck. The accused present in the Court was identified by PW-6. The accused ran away from the spot after committing the accident, thereafter, he removed his son to the hospital. The accident took place due to the rash and negligent driving of the petitioner. I have also gone through the cross examination of this witness and he has denied the suggestion that his son was running while crossing the road. He has denied the suggestion that at that time he was at the shop purchasing some articles. I have also gone through the statements of all the witnesses who have supported the case of the prosecution. I have also gone through the statement of the accused recorded Under Section 313 Cr.P.C. The accused in his statement has submitted that he was driving a truck No. HR-38-BG-0127 on the date of incident and when he reached speed breaker near a Government School, he slowed down his truck. 5-6 children were standing at the Patri and they rushed to cross the road. Accused applied his brakes but one child got injured. Accused stopped the truck and took the child to the hospital.

4. Arguments heard.

5. Learned Counsel for the petitioner submits that the petitioner has already undergone imprisonment for about 3 to 4 months.

6. On the other hand learned APP for the State submitted that both the legs of the child had been damaged in the said accident and child is handicapped for the whole of his life and he cannot walk and now he has become a liability on his parents so no leniency should be shown to the petitioner who has caused accident. It is the rash and negligent driving of the petitioner which had caused the accident.

7. I have heard learned Counsel for the parties and also perused the record. I have come to the conclusion that it was the petitioner and none else who was driving the truck No. HR-38-BG-0127 as a result of which this accident was caused and in that accident one small child has lost both his legs. I do not think it is a fit case where sentence should be reduced. The petition filed by the petitioner has no merit and is therefore dismissed. The petitioner is directed to surrender before the learned trial Court and serve the remaining sentence in jail awarded by the learned trial Court.

8. With these observations the petition stands disposed of.

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