

HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Revision No. 595/2001

(Old No. 1201 of 1989)

Balbir Singn

.....Revisionist

Vs.

State of U.P.

.....Respondent

Hon'ble Irshad Hussain, J.

Heard Sri I.D. Paliwal i/b for Sri Sudhanshu Dhulia leaned counsel for the revisionist and Sri G.S.Sandhu learned A.G.A. for the State and perused the record.

This criminal revision under section 397/401 of the Code of Criminal Procedure (for short 'Code') has been preferred against the judgment and order dated 23.6.1989 passed by the then Sessions Judge, Tehri Garhwal in criminal appeal no. 32/1989 whereby the learned Sessions Judge dismissed the appeal of the revisionist and affirmed the judgment and order dated 18.5.1989 passed by the learned Munsif Magistrate.

The revisionist-accused was held guilty and convicted of the offences punishable under section 279/304-A IPC and was sentenced to pay fine of Rs. 1000/- under section 279 IPC & to pay fine of Rs. 5000/- under section 304A IPC. The sum of Rs. 5000/- was directed to be paid to the heirs of the deceased who died in the accident. The judgment of conviction and sentence so delivered by the learned Munsif Magistrate, Tehri Garhwal on 18.5.1989 was affirmed by the Sessions Judge in criminal appeal no. 32/1989 preferred by the revisionist-accused.

From perusal of the record, it is evident that the revisionist had not shown any perversity in the appreciation of the prosecution. The revisionist father took a plea that the steering of the default vehicle got locked as a result of which accident took place, which was in fact not on account of vis-major and admittedly it was due to poor vehicle maintenance which was given by the revisionist at the time of the accident. The factum of the accident not being disputed, it cannot be denied that the evidence given by the prosecution witness to the effect that the vehicle was being driven rashly and negligently was rightly placed reliance upon by he learned Magistrate. Therefore, there being no illegality or impropriety in the judgment and order, the criminal revision

preferred only on a limited ground lack merit and is liable to be dismissed. The revision is hereby dismissed.

Let the record be sent back to the lower court for compliance and report to be submitted within one month.

(Irshad Hussain, J.)

Date 30.4.2004

Rawat