

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

**CRR No.163-2005(O&M)
DATE OF DECISION : 13.08.2015**

Gurnam Singh @ Satnam Singh

..... Petitioner

Vs.

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present :- Ms. Tanvi Sood, Advocate, amicus curiae
for the petitioner.

Mr. Ashish Sanghi, DAG, Punjab.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J.(ORAL)

This revision has been filed against concurrent conviction of the petitioner under Sections 279/304-A IPC whereby he was sentenced to undergo rigorous imprisonment for a period of six months under Section 279 IPC and for a period of one year and to pay a fine of Rs. 500/- under Section 304-A IPC. In default of payment of fine he was further sentenced to undergo rigorous imprisonment for a period of 15 days. Both the sentences were ordered to run concurrently.

Briefly stated the facts of the prosecution case are that Balbir Singh -complainant was working as driver on the truck of one Surjit Singh. Jasbir Singh was working as conductor/cleaner on that truck. On 16.10.99 they loaded paddy in the truck and started for Dasuya and when they reached behind village Handowal, a truck

bearing registration No. PBQ-5725 being driven by the petitioner came at a high speed and in a rash and negligent manner and dashed against the right side of complainant's truck as a result of which cleaner Jasbir Singh received multiple injuries. He was taken to hospital by the complainant where he was found to be dead. The petitioner was convicted by the court as narrated above. His appeal was also dismissed and that is the reason he has come up before this Court by way of the present revision petition.

The main argument of learned counsel for the petitioner is that it has not been established that the petitioner was driving the truck. In the first place she states that complainant-Balbir Singh nowhere stated that he knew the petitioner prior to the time of the accident. In these circumstances there is no explanation as to how he could identify the petitioner. She has argued that in his first statement the complainant had given the name of the driver as Gurnam Singh. Her next argument is that apart from this very shady identification, no evidence has been led to prove that the petitioner was either driving the truck at the relevant time or was even otherwise the regular driver of that truck.

Learned DAG has not been able to explain how complainant-Balbir Singh knew the petitioner when it was their case that after the accident the driver of the offending truck had run away under the cover of darkness. He further stated that the owner of the truck had taken the truck of Surjit Singh and at that time had made a statement under Section 161 Cr.P.C. that it was that the petitioner who was his driver. However he has fairly accepted that that owner did not step into the witness box.

In these circumstances it can not be held beyond reasonable doubt that the petitioner was in fact driving the offending truck at the time of the accident. The benefit of this doubt has to go

to the petitioner.

The petition is allowed. The judgment and order of conviction are set aside. Petitioner is acquitted of the charges levelled against him. This Court puts on record its appreciation for the able assistance of the amicus.

Since the main case has been decided, the Criminal Misc. Application, if any, also stands disposed of.

August 13, 2015

Pooja Sharma-I

**(AJAY TEWARI)
JUDGE**