

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

**CRA-S-1171-SB of 2002
Date of Decision :- 11.2.2015**

Amarjit Singh

.....Appellant

Versus

The State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. S.P.S. Sidhu, Advocate for the appellant.

Mr. D.S. Mann, AAG, Punjab.

GURMIT RAM, J.

This appeal has been preferred by the appellant Amarjit Singh against the judgment and order of sentence dated 12.12.2001 passed by the Court of learned Additional Sessions Judge, Ferozepur vide which the appellant who was accused before the learned trial Court has been held guilty for the offences under Sections 279/337/338 of Indian Penal Code (hereinafter referred to as IPC) in case bearing FIR No.68 dated 23.8.1995, Police Station Cantt. Ferozepur and convicted thereunder, whereas he and his other four co-accused were acquitted for the offences punishable under Sections 148, 307, 325, 323 read with Section 149, IPC in this case vide the impugned judgment.

2. The case of the prosecution before the learned trial Court, in brief was that on 22.8.1995 MLRs of injured Kashmir Singh and Mahabir Singh were received at Police Station Cantt. Ferozepur from Civil Hospital Ferozepur. Thereupon, ASI Jugraj Singh along with Constable

Chhinderpal Singh went to the said hospital for recording the statements of injured. He sought the opinion of the doctor for this purpose who declared them unfit to make their statements. On 23.8.1995 the said police officer along with other police officials again went to the said hospital and sought the opinion of the doctor for recording the statements of injured, who declared them fit to make their statements. Then he recorded the statement of injured Mahabir Singh, the gist of which is as under:-

“That he is a transporter by profession. On 22.8.1995, he along with Kashmir Singh was going to his village Naurang Ke Sial on his scooter which was being driven by Kashmir Singh. When they reached on Muktsar road a little ahead of Sher Shahwali crossing, there came a jeep from the behind at a very rash speed, which hit against them, as a result thereof he and Kashmir Singh fell on the road whereas their scooter fell on one side. After going a little ahead of them, the said jeep stopped. The driver of the jeep took his head outside and look at them, upon which the complainant came to know that the jeep was being driven by Amarjit Singh, Ex-President of Truck Union, Ferozepur Cantt. Charanjit Singh, brother of Amarjit Singh armed with .12 bore gun, Punjab Roadways Driver Gurnek Singh armed with .12 bore gun and one Gian Singh were sitting in the rear part

of the jeep. In the meantime, Girish Chander resident of Basti Taikan Wali, Ferozepur Cantt also came there on a motorcycle. He raised a *lalkara* 'Amarjit Singh they are left alive, run the jeep over them after bringing it back.' Then Amarjit Singh brought his jeep back and ran the same over them and then jeep was taken forward. Then on the asking of Girish Chander and the persons sitting in the jeep, he (Amarjit Singh) brought it back and ran it again over them. Mahabir Singh and Kashmir Singh raised an alarm of *Mar ditta – Mar ditta* for their safety. On this Amarjit Singh along with his accomplice including Girish Chander ran away from the spot along with the jeep and motorcycle. The injured were shifted to the hospital by a Constable, where they were got admitted and medically treated. The cause behind this occurrence was that earlier there was some dispute between the complainant party and the party of Amarjit Singh regarding the charges for the carriage of paddy of FCI Department of the year 1988. The matter in this regard was also reported to Deputy Commissioner, Ferozepur. As a result thereof, Amarjit Singh etc. had struck their scooter with a jeep and also ran their jeep over them with an intention to kill them.”

3. The above-said statement of Mahabir Singh was read over to him by ASI Jugraj Singh after recording the same, which he thumb marked after admitting it to be correct. He sent ruqqa to the police station, on the basis of which, the instant case was registered. Blood stained clothes of both the injured were taken into police possession. Site-plan of the place of occurrence was prepared. Accused were apprehended. During interrogation accused Amarjit Singh got recovered one jeep bearing No.PCO-2830 which was taken into police possession. Statements of witnesses were recorded. On completion of investigation, challan in this case was presented in the Court of learned Illaqa Magistrate, Ferozepur who further committed this case to the Court of learned Sessions Judge, Ferozepur for trial after making compliance of the provisions of Section 207 of Cr.P.C.

4. Finding a prima-facie case under Sections 148, 307, 325, 323 read with Section 149, IPC, against all the accused, they were charge-sheeted accordingly, to which, they pleaded not guilty and claimed trial.

5. The prosecution in order to prove its case examined seventeen witnesses before the learned trial Court.

6. Then the accused were duly examined as required under Section 313 of Cr.P.C. Entire incriminating evidence as brought on the file against them was put to them, which was denied by them entirely. Further they pleaded their innocence and false implication in this case due to some enmity with Kanwarjit Singh, President of truck union, Ferozepur.

In their defence, they also examined two DWs namely S.K.

Jain as DW1 and Mrs. Jatinder Kaur as DW2.

7. The trial Court after hearing the learned Addl. Public Prosecutor for the State, learned defence counsel and going through the record held the present appellant guilty and convicted him for the offences punishable under Sections 279, 337 and 338, IPC vide the impugned judgment and order of sentence, but acquitted him as well as his four co-accused for the offences punishable under Sections 148, 307, 325, 323 read with Section 149, IPC.

8. Appellant/accused feeling aggrieved against this judgment and order of sentence has come up in the instant appeal. Notice of this appeal was issued to the respondent-State. Record of the learned trial Court was also requisitioned.

9. I have heard the learned counsel for the appellant, learned State counsel and have also gone through the record with their valuable assistance.

10. Learned counsel for the appellant has contended that the entire approach of the learned trial Court in convicting the appellant is based on mere conjectures and surmises. The present appellant along with his alleged co-accused was implicated in this case falsely just to harass and humiliate them. Further prayer has been made to set aside the impugned judgment and order of sentence by accepting this appeal and to acquit the appellant of the charges in this case.

11. I deem it necessary to evaluate the evidence of both the parties as brought on record during the trial of the case.

PW13 Mahaveer Singh – complainant deposed on the same

lines as deposed by him before the police, while making the statement Ex.P72 on 23.8.1995 with regard to the prosecution version. So there is no need to discuss his statement in detail.

Kashmir Singh was another injured as well as eye-witness to the alleged occurrence. He appeared in this case as PW6. He also supported the version of the prosecution out and out. Further he also proved the memo Ex.P61 vide which parcels containing blood stained earth and simple earth were taken into police possession. Further he also proved the memo Ex.P63 vide which photocopies of his driving licence and registration certificate of scooter were taken into police possession.

PW4 Dr. Manmohan Singh Dhillon was posted as Medical Officer at Civil Hospital, Ferozepur on 22.8.1995. He medico-legally examined injured Kashmir Singh in this case and found 19 injuries on his person as detailed in the carbon copy of his MLR Ex.P53. Further he also proved the pictorial diagram Ex.P54 and his report Ex.P55 vide which some of the injuries on the person of Kashmir Singh were declared simple. Then on the same day, he also medically examined injured Mahabir Singh and found 14 injuries on his person as detailed in the carbon copy of his MLR Ex.P56. Further he also proved pictorial diagram Ex.P57 showing the seats of injuries.

PW1 Dr. Surinder Kinra had conducted the x-ray examination of injured Mahabir Singh on 5.9.1996 and proved his x-ray report Ex.P1 and the x-ray films in this regard as Ex.P2 to Ex.P13. Further on the same day, he also conducted x-ray examination of injured Kashmir Singh and proved his x-ray report in this connection Ex.P14 and

x-ray films Ex.P15 to Ex.P31.

PW2 Dr. H.L. Garg also radiologically examined injured Kashmir Singh on 23.8.1995 and proved his x-ray report Ex.P33 and the relevant skiagrams in this regard Ex.P34 to Ex.P44. On the same day, he also radiologically examined injured Mahabir Singh and submitted his x-ray report Ex.P45 in this regard and proved the relevant skiagrams Ex.P46 to Ex.P49.

PW16 ASI Jugraj Singh was the Investigating Officer in this case. He proved application Ex.P75 which he had moved before the doctor to seek his opinion for recording statements of injured on which the doctor concerned declared both the injured as fit to make their statement vide his endorsement Ex.P60. Further he also proved the statement Ex.P72 of complainant injured Mahabir Singh recorded by him, on the basis of which FIR Ex.P72/B was registered. He further proved site-plan Ex.P77 of the place of occurrence which he prepared after inspecting the same. Further he stated about the recoveries made in this case and about the official formalities which he did in this case during its investigation in discharge of his official duty. Further he proved the disclosure statement Ex.P69 suffered by the accused Amarjit Singh during his interrogation regarding concealment of the jeep and its recovery in pursuant thereof and the memo Ex.P70 vide which this jeep bearing No.PCO-2830 was taken into police possession. Then this witness also proved two photographs Ex.P68 and Ex.P69 along with their negatives Ex.P70 and Ex.P71 which were produced before him during investigation by Photographer Ashok Kumar.

PW7 Sube Singh, Clerk proved the registration certificate of the scooter bearing No.PB-05-B/0099, the photocopy of which is Ex.P64.

PW10 Mohinder Singh, Junior Asstt. deposed that as per the record brought by him, the vehicle bearing No.PCO-2830 i.e. jeep was transferred as per their records from the name of Jaswant Singh to Santosh Kumar vide entry No.47862, the photocopy of which is Ex.P68.

PW12 Ashok Kumar, Photographer also proved the above-said photographs Ex.P68 and Ex.P69 and negatives thereof Ex.P70 and Ex.P71.

12. As per the case of prosecution both the injured were examined by Dr. Manmohan Singh Dhillon (PW4) when they were got admitted after the alleged accident at Civil Hospital, Ferozepur. It is recorded in his statement that there was history of road side accident. Both the patients were conscious. Their pulse was 88 and 80 per minute. Their blood pressure was also found to be normal. Then it is in his cross examination that all the injuries on the person of both the injured were with blunt weapon due to road side accident. It is correct that whenever any person is run over by the vehicle again and again, then the result of the injuries will be crushed injuries. In the case of Mahabir Singh and Kashmir Singh, no injury was detected as crushed injury. Both the injured were conscious and they had disclosed the history of road accident. On the person of both of them, injuries found to be grievous in nature are possible by fall from any vehicle running at high speed. Then the case of the prosecution that one Amarjit Singh, Constable reached at the spot after the alleged accident and got the injured admitted in Civil Hospital,

Ferozepur for their medical treatment. This Amarjit Singh appeared as PW8 at the time of trial of this case. It is also in his statement that he went to the spot of occurrence after hearing the noise of accident.

13. So from the above discussed evidence of prosecution, it is held that learned trial Court has rightly concluded that the alleged occurrence was a case of accident in which both the injured had sustained injuries. It has rightly held the present appellant guilty for the offences punishable under Sections 279, 337 and 338 IPC. So, there is nothing wrong in the findings of the learned trial Court.

14. In view of the above discussion, this appeal is held to be meritless and therefore it stands dismissed and disposed of accordingly. The judgment and order under appeal are affirmed.

An intimation be sent to the quarter concerned for compliance.

(GURMIT RAM)
JUDGE

11.2.2015
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1. Whether to be referred to the Reporters or not? No/Yes
2. Whether the judgment should be reported in the Digest? No/Yes