

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR no. 1004 of 2007(O&M)
Decided on :29.07.2015

Kuldeep Singh

....Petitioner(s)

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

- 1)Whether reporters of local newspapers 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?

Present:- Mr.Aman Inder Preet Singh, Advocate for the petitioner

Mr.P.J.S.Hundal, AAG, Punjab

MAHESH GROVER, J

This revision petition is directed against the orders dated 23.11.2005 of the learned Trial Court and dated 14.3.2007 of the learned Appellate Court.

It may be noticed that there was no representation on 27.5.2015 on behalf of the petitioner and the Court had appointed Ms. Deepika Bawa as a counsel from the legal aid scheme. However, she also defaulted in appearance on 22.7.2015 and the Court passed an order expressing its unhappiness. Ms. Deepika Bawa subsequent to the passing of the order had come and expressed her regrets and explained the absence. Her lapse in non-appearance is thus condoned. However, Mr. Aman Inder Preet Singh, Advocate was appointed as counsel for the legal aid as he was present in Court on 22.7.2015 and today the matter has been argued by him.

The petitioner was convicted and sentenced as under:-

Under Section 279 IPC	RI for 4 months and to pay fine of Rs.300/- . In default of payment of fine to further undergo RI for 10 days
Under Section 304-A IPC	RI for 1 year and to pay fine of Rs.700/-. In default of payment of fine to further undergo RI for 20 days.

The prosecution case would indicate an accident between an Esteem car and a truck on 9.11.1999 resulting in the death of three persons namely Inder Mohan Singh and two children Nidhi and Miki (later identified as Shivam). There were six occupants in the car. The complainant is one Onkar Charanjit Singh who is stated to be relative of the deceased and allegedly following the unfortunate vehicle in his own car. The prosecution examined 8 witnesses including a mechanic who gave his report regarding checking of the offending vehicle i.e truck bearing no.PJQ-7159

The petitioner in response to the prosecution version had pleaded false implication but did not qualify his defence any further. He examined one witness in his defence who supported his plea of false implication.

Learned counsel for the petitioner while impugning the orders of petitioner's conviction and sentence has disputed the identity of the petitioner and his presence at the spot. He contends that false case has been foisted upon the petitioner with no supportive evidence.

Learned counsel for the respondents on other hand has supported the impugned judgments.

On due consideration of the matter, I am of the opinion that there are serious discrepancies which cannot be wished away in the story of the prosecution. The presence of Onkar Charanjit Singh – complainant at

the spot seems to be highly doubtful. He has stated that he was following the ill-fated car in his own vehicle. If that be so then after the unfortunate accident the complainant would have attempted to extricate the deceased and the injured from the car to remove them to the hospital but the statement of ASI Darbara Singh examined as PW-3 reveals that it was he who reached the spot after sometime and took the deceased and the injured to the hospital with no mention of the complainant. In his statement Onkar Charanjit Singh PW1 mentions that he had sent his brother to Civil Hospital, Kharar after taking him out of the car where he was pronounced dead while other injured were sent to PGI. The hospital record would however indicate that it is ASI Darbara Singh who brought the deceased to the hospital. This itself leads to a reasonable inference of the complainant being introduced by the prosecution and his presence does not seem to be natural and probable in the absence of any supportive evidence.

Be that as it may even if this aspect is to be ignored there would be other evidence suggesting false implication of the petitioner particularly the testimony of PW8 and PW 4 and PW 5. All these witnesses were occupants of the car which met with the accident. PW 8 Vijay Kumar particularly states that name of the driver was disclosed by the other two witnesses namely Ram Chand and Rita who further disowned the fact of knowledge about the petitioner's name.

There is no other material to connect the petitioner with the accident. Nothing has been stated by the prosecution about his driving license or any documents of identity being recovered from the spot which could have established the presence of the petitioner in the offending vehicle. The owner of the vehicle has not been examined who could also

have provided an insight about the person driving the vehicle.

From the aforesaid facts, I am of the view that the prosecution has failed to establish the case beyond reasonable doubt against the petitioner who deserves to be acquitted of the charges against him. Revision petition is accepted. Petitioner is directed to be acquitted of the charges framed against him.

July 29, 2015
rekha

(Mahesh Grover)
Judge