

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl. Revision No.1028 of 2007
Date of Decision : 22.07.2015

Gurdev Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr.N.S.Sekhawat, Advocate for the petitioner

Mr. PJS Hundal, AAG, Punjab.

MAHESH GROVER, J.

The petitioner impugns the judgment of the learned trial Court and that of the Appellate Court dated 11.05.2006 and 31.05.2007 respectively vide which he was convicted and sentenced as under:

Before trial Court	Before Appellate Court
1. Under Section 279 IPC to undergo rigorous imprisonment for three months and to pay a fine of Rs.200/- and in default of payment of fine to further undergo rigorous imprisonment for ten days	Sentence maintained under Section 279 IPC.
2. Under Section 337 IPC to undergo rigorous imprisonment for three months and to pay a fine of Rs.100/- and in default of payment of fine to further undergo rigorous imprisonment for five days.	Sentence under Section 337 IPC deleted but fine enhanced from Rs.100/- to Rs.300/-.
3. Under Section 338 IPC to undergo rigorous imprisonment for one year and to pay a fine of Rs.200/- and in default of payment of fine to further undergo rigorous imprisonment for ten days.	Sentence maintained under Section 338 IPC but fine enhanced from Rs.200/- to Rs.300/-

The FIR was registered on the statement of one Gurtej Singh and according to the case set up, he along with Teja Singh was returning home from the fields and discussing the plucking of cotton crops and while standing on a 'kacha' portion of the road, Teja Singh was struck by a car No. DL-2CG-6406 (hereinafter known as the offending vehicle)

coming from side of Mansa injuring him in the process, resulting in his hospitalization for a number of days.

The FIR was registered on the statement of Gurtej Singh as the injured Teja Singh remained in hospital and was unfit to make statement to the police for a long time. This is borne out from the statement of the doctor which has come on record subsequently during the course of proceedings.

The pleaded case of the petitioner was that he and his vehicle were not involved in the accident. He had questioned his identity and pleaded false implication. However, he did not lead any evidence in this regard. The fact of the injuries suffered by Teja Singh is not in dispute as there is medical testimony supported by testimony of doctor, who treated him, in this regard. The petitioner has seriously questioned his identity. The complainant, on the other hand, has stated that he knew the driver as a person visiting a co-villager Harnek Singh and it was established from the testimony that the sister of Harnek Singh was married in the village of the petitioner. This is one of the factor with the Court construed to be sufficient to conclude the familiarity of the petitioner with Gurtej Singh.

In the considered view of this Court, this *per se* could not have been sufficient to establish the identity of the petitioner but there is the report of the mechanic which suggest that the vehicle of the petitioner was involved in the accident and this fact he did not choose to explain to the Court.

The car was mechanically tested on 30.10.2001 and the date of accident is 22.10.2001. The right headlight of the car was broken while the right mudguard was dented and the wind screen broken again from the right side. The right mirror was also broken. The petitioner could not answer this

testimony of the mechanic during the course of the proceedings and neither did he explain the damage to his vehicle. Therefore, this evidence coupled with the other evidence of the petitioner being a visitor to the village assumes credibility worth acceptance. Once the identity of the petitioner is established in causing the accident, then the fact of negligence has to be examined. The case of the complainant and the injured is that they were standing on the 'kacha' portion of the road while the vehicle came and hit Teja Singh. If the injured person was on foot and standing by the side of the road then a heavy onus is rested on the petitioner to explain as to how he hit the victim Teja Singh. The petitioner made no attempt to explain this.

The principal of 'res ipsa loquitor' would suggest negligence on the part of the petitioner who is driving the vehicle on a road to cause an accident with people who are standing by the side. There is, thus, no redeeming feature in the case of petitioner and the revision petition necessarily has to be dismissed on this score, particularly when the complainant is the eye witness whose testimony remains un-shattered.

At this stage, learned counsel for the petitioner contends that the accident took place in the year 2001 and 14 years have elapsed. The petitioner in turn has also undergone about 80 days of the imprisonment out of one year awarded to him. He thus, pleads for some leniency on the issue of sentence.

This prayer is opposed by the learned counsel for the respondent.

On due consideration of this aspect, I am of the opinion that since the occurrence took place in the year 2001 and the petitioner has faced the consequences of criminal prosecution for as long as 14 years

approximately and noticing the fact that it is not a case of death but a case of injury and also the fact that the petitioner has undergone more than two months of the total substantive sentence of one year awarded to him and the fact that the petitioner would also now be fairly advanced in age, I would deem it appropriate to reduce the sentence of the petitioner to that of already undergone while enhance the fine component to ₹50,000/-, which shall be paid by the petitioner to the injured by depositing the said amount before the learned trial Court within a period of three months from today and the same shall be disbursed to the injured Teja Singh after due notice. Failing to comply with the above direction will result in revival of the sentence already awarded to the petitioner and dismissal of this revision.

Petition disposed of.

22.07. 2015
mamta

(Mahesh Grover)
Judge