

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

**CRR No.2318 of 2013.
Decided on : 4.11.2015.**

Angrej Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Achin Gupta, Advocate,
for the petitioner.

Mr. Mehardeep Singh, DAG, Punjab.

Mr. P.S. Brar, Advocate,
for respondent No.2.

JITENDRA CHAUHAN, J.

This revision petition is filed by the complainant, Angrej Singh, complainant against the judgment dated 27.4.2013, passed by the Sessions Judge, Faridkot vide which the respondent No.2 Darshan Singh was acquitted in case FIR No. 59 dated 23.6.2009 under Sections 304-A, 337, 279, 338 and 427 IPC registered at Police Station Jaitu, District Faridkot.

Brief facts of the case of prosecution as noticed in the judgment passed by the Sessions Judge are as under:-

“That, complainant Angrej Singh, who is working as an agriculturist, had taken land of village Sedha

Singh Wala, on lease and used to cultivate the same.

On 23.6.2009, at about 4.45 PM, he had proceeded towards his fields and ahead of him, while, on motor cycle Make Bajaj Platina, one Manpreet Singh, son of Naib Singh along with his (complainant) brother Gurpiar Singh were going, whereas, Avtar Singh, son of Puran Singh was the pillion rider, on the complainant's motor cycle. When, they were about 1 kilometer short from village Sedha Singh Wala, at about 5.00 PM, then, from the side of Bajakhana, one zen car came, which was driven, in a rash and negligent manner and at a high speed, struck into the motor cycle of Manpreet Singh, as a result whereof, Manpreet Singh and Gurpiar Singh along with the motor cycle fell on the ground and they had sustained extensive injuries. Gurpiar Singh, brother of the complainant died at the spot, whereas, Manpreet Singh injured was shifted to the Hospital with the help of volunteers of Sahara Club. The said accident had been caused by Gurlal Singh, son of Sukhdev Singh, while driving car bearing No. DL-3C-N-4636. The accident had taken place due to rash and negligent driving of the aforesaid car by its driver.”

Challan/report under Section 173 Cr.P.C was presented in the Court against the accused Darshan Singh. The provisions of Section 207 Cr.P.C were complied with and the accused was supplied the copies of challan and other documents, free of cost.

After holding trial, the learned trial Magistrate, vide the judgment of conviction and the order of sentence dated 19.11.2012, convicted the accused under Sections 279 and 304-A IPC and sentenced him to undergo RI for 6 months and to pay fine of Rs.1000/- with default stipulation under Section 279 IPC and to undergo RI for one year and to pay fine of Rs.1000/- with default stipulation under Section 304-A IPC.

Feeling aggrieved against the judgment of conviction and the order of sentence dated 19.11.2012, the accused filed appeal before the Sessions Judge, Faridkot. The Sessions Judge, vide the impugned judgment dated 27.4.2013, accepted the appeal and acquitted the accused of the charges framed against him.

The present revision petition is filed by the complainant assailing the judgment of acquittal dated 27.4.2013, passed by the Sessions Judge, Faridkot.

Learned counsel for the complainant-petitioner contends that in this case, the sole controversy revolves around the identity of the accused. The prosecution has very well established the fact that the accused and the driver of the offending vehicle is one and the same person. While appearing as PW-1, the complainant has stated that the car driver Gurlal Singh was already known to him. He had duly identified the car driver to be the accused Gurlal Singh present in the Court. He further contends that these material facts were ignored by the learned appellate Court leading to miscarriage of justice. There is sufficient evidence against the accused.

On the other hand, the learned counsel for respondent No.2 submits that power of this Court in revision is restricted. The finding of acquittal cannot be converted into that of conviction as mandated by Section 401(3) Cr.P.C. He further contends that where two views are possible in such a context the view which favours the accused should be adopted. It has not been proved by the prosecution that Gurlal Singh and Darshan Singh is the same person. The prosecution is required to prove its case beyond reasonable shadow of doubt. None of the documents prepared by the Police on the spot show that Gurlal Singh and Darshan Singh are one and the same person. In all the documents, except arrest memorandum, the name of the accused is mentioned as Gurlal Singh and not Darshan Singh.

Further, he refers to the cross-examination of PW-1, Angrej Singh,

where the complainant has admitted that he came to know that the offending car was being driven by Gurlal Singh. The accused Gurlal Singh was already known to the complainant. It is, therefore, submitted that the complainant has nowhere named Darshan Singh as the accused in the present case.

I have heard learned counsel for both the parties and have gone through the record of the case.

In the initial version Ex.PA, the complainant had made a statement that the Zen car bearing No. DL-3-C-N-4636 was being driven by Gurlal Singh son of Sukhdev Singh. In the subsequent proceedings, i.e. the recovery memorandums Ex. PB, Ex. PC and Ex. PD, the name of accused was mentioned as Gurlal Singh son of Sukhdev Singh. The case of the prosecution is that the accident was caused by Gurlal Singh son of Sukhdev Singh. The person who faced trial is Darshan Singh. It was only on the arrest memorandum, that the name of Darshan Singh @ Gurlal Singh son of Sukhdev Singh was mentioned. The prosecution has failed to explain as to how the name of Darshan Singh was added to the name of Gurlal Singh. Darshan Singh has nowhere stated his name as alias Gurlal Singh. It has not come on the record that Gurlal Singh is also known by the name of Darshan Singh. In the driving licence, Ex. PW-6/A, the name of respondent

No.2 is mentioned as Darshan Singh and not Gurlal Singh. No test

identification was conducted during investigation in order to establish the identity of the driver. This being so, the lower appellate Court has rightly observed that the identity of the accused is in doubt. The well reasoned judgment passed by the Sessions Judge does not call for any interference in exercise of revisional jurisdiction by this Court. Consequently, the revision petition is dismissed.

4.11.2015.
SN

(JITENDRA CHAUHAN)
JUDGE