

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR no. 2320 of 2014 (O&M)
Date of Decision : 10.03.2015

Kulwinder Singh

....Petitioner

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.Daman Dhir, Advocate for the petitioner

Mr.P.S.Hundal, AAG, Punjab

MAHESH GROVER, J.

CRM no. 22991 of 2014

After hearing learned counsel for the applicant and going through the contents of the application for condonation of delay of 37 days in filing the revision, the same is allowed. Delay of 37 days in filing the instant petition is hereby condoned.

Main case

Petitioner questions his conviction and sentence awarded to him under the provisions of 279,304-A, 338 of IPC.

In an accident which occurred on 29.7.2007 causing 5 deaths of travellers in a three wheeler, the petitioner was prosecuted for driving the offending truck negligently.

The prosecution case rested primarily on the statement of an eye witness, PW1 who was also the owner of the three wheeler namely

Rattan Singh. If his statements which are on record are to be perused they are divergent in content. Before the police, he initially stated that he was a traveller in the three wheeler but then before the Court while testifying he stated that he was informed telephonically about the accident and further that he did not get any opportunity to see the driver of the offending vehicle at the time of accident. But strangely he goes on to identify the petitioner in Court as the driver of the offending vehicle.

The prosecution story resting heavily on the statement of the eye witness cannot withstand the test of prudence and belief beyond reasonability of doubt if the stand of the petitioner who pleads false implication is to be seen. That apart the report of the mechanic does not specify as to whether the vehicle was involved in an accident or not. It was imperative for the prosecution to establish two facts; the identity of the vehicle and driver of the offending vehicle. Having failed on both these counts, I am of the view that the conviction of the petitioner cannot be sustained as the prosecution has failed to establish its case beyond reasonable doubt against the petitioner. Hence, revision petition is accepted. Petitioner is acquitted of all the charges against him.

March 10, 2015
rekha

(MAHESH GROVER)
JUDGE