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

CRR No.2831 of 2015

Date of Decision: September 15, 2015.

Ms. Ranjit Kaur and others

.....Petitioners

Versus

Surinder Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Mohit Jaggi, Advocate
for the petitioners.

SABINA, J.

Respondent No.1 had faced trial in FIR No.273 dated 05.10.2009, under Sections 279, 304-A of Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Sector 36, Chandigarh. Trial Court vide order dated 05.10.2013 ordered the acquittal of respondent No.1 of the charges framed against him. The said order was upheld in appeal by the Appellate Court vide order dated 13.02.2015. Hence, the present petition by the petitioners.

I have heard learned counsel for the petitioners and have gone through the record available on the file carefully.

Prosecution story, in brief, is that on 05.10.2009, complainant Surinder Singh was returning from Sector 17, Chandigarh in his three-wheeler after dropping a passenger.

When he reached near Gurudwara, on the dividing road of

Sector 43/44, Chandigarh, at about 7:15 AM, a Car came from behind and struck against a lady who was crossing the road. As a result of this, the lady suffered injuries and was removed to the Hospital where she later succumbed to her injuries.

During trial, complainant was examined as PW2 but he did not support the prosecution case. Since there was no evidence on record against respondent No.1, the trial Court rightly ordered the acquittal of respondent No.1.

Before the Appellate Court, an application was moved by the petitioners under Section 391 of Code of Criminal Procedure, 1973 ('Cr. P.C.' for short) alleging that petitioner No.3 had also witnessed the occurrence but had not been cited as a witness by the police. The said application was rightly dismissed by the Appellate Court as, during trial, no effort was made by the petitioners to examine PW3 as a witness. It has been further noticed by the Appellate Court that the petitioners had filed a claim petition under the Motor Vehicles Act, 1988 seeking compensation on account of death of Jasbir Kaur in the motor vehicle accident. However, petitioner No.3 was not examined as an eye witness in the said proceedings. It has been further noticed by the Appellate Court that Harjit Singh petitioner No.2 had stated, during trial, that his mother Jasbir Kaur had died in a road-side accident and he had

identified the dead body of his mother. The said witness did not state before the police that the accident had been witnessed by his brother Gagandeep. Moreover the said witness had deposed that his mother had gone to the Gurudwara and later, he came to know that she had died in a road-side accident. Thus, it was evident that Jasbir Kaur had gone alone to the Gurudwara. In case, petitioner No.3 Gagandeep had accompanied his mother Jasbir Kaur to the Gurudwara, then after said accident, he would have taken her to the Hospital and would have lodged the FIR in question.

In the facts and circumstances of the present case, the learned Appellate Court rightly dismissed the application moved by the petitioners under Section 391 Cr. P.C. for permission to lead additional evidence. Since the sole eye witness had failed to support the prosecution case, the Courts below rightly held that the respondent No.1 was liable to be acquitted of the charged framed against him.

No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

September 15, 2015
mahavir