

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

**CRR-635 of 2015 (O&M)
Date of Decision: 14.08.2015**

Pushpa DeviPetitioner
Versus
Sharafat Khan and anotherRespondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers 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. Bhupinder Singh Randhawa, Advocate,
for petitioner.

SHEKHER DHAWAN, J (ORAL)

CRM No.6051 of 2015

Prayer has been made in the application for condonation of delay
of 32 days in filing the petition.

In view of the grounds taken in the application, application is
allowed and delay of 32 days in filing the revision petition stand condoned.

CRR No.635 of 2015

Present revision petition is against judgment/order dated
15.07.2013 passed by Judicial Magistrate 1st Class, Chandigarh vide which
respondent was acquitted and judgment dated 28.10.2014 passed by
Sessions Judge, Chandigarh vide which the appeal filed by the State was
dismissed.

2. Learned counsel for the revisionist took the plea that both the

Courts below have not considered the fact that PW-2 Constable Vinod Kumar identified the accused person in the Court and also disclosed the name of motorcyclist Vishal. As per this witness, because of rash and negligent driving of the accused, accident had taken place. Cross-examination of the complainant was deferred at the request of counsel for the accused and was not carried out by accused. Once the examination-in-chief was recorded it was the duty of the Court to ensure that the cross-examination be completed and there was no ground to absolve the accused from the criminal liability. Similarly PW-4 Dalip Ratta was not cross-examined though his examination-in-chief was recorded. Courts below failed to procure the presence of Doctor who conducted the postmortem of the deceased. PW-2 to PW-4 were not cross-examined and all of them are police officials. So the present revision petition be allowed and judgment/order dated 15.07.2013 passed by Judicial Magistrate 1st Class, Chandigarh and judgment dated 28.10.2014 passed by Sessions Judge, Chandigarh be set aside and accused be punished.

3. Having considered the rival submissions made by learned counsel for the revisionist, this Court is of the considered view that both the Courts below have already dealt with this aspect of recording of examination-in-chief of PW-2 to PW-4 and their non-appearance for cross-examination. Both the Courts have rightly observed that the witnesses did not turn up for more than 5 years and in absence of cross-examination their examination-in-chief cannot be read in evidence. 21 effective adjournments were given including last opportunity for prosecution evidence but the prosecution evidence was not completed. Even cross-examination of above mentioned three witnesses were not completed. There is no illegality calling for

interference by way of invoking of revisional jurisdiction of this Court.

4. In view of the above, present revision petition being without any merit stands dismissed.

**(SHEKHER DHAWAN)
JUDGE**

August 14, 2015
msd