

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

Criminal Revision 1935 of 2007
Date of Decision : August 22, 2016

Mulkh Raj	VERSUS	Petitioner
State of Haryana and another		Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Ms. Monika Jalota, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana
for respondent No. 1-State.

None for respondent No. 2.

T.P.S. MANN, J. (Oral)

Complainant-Mulkh Raj has filed the present revision for challenging the judgment dated 6.6.2007 passed by learned Sub-Divisional Judicial Magistrate, Pehowa, whereby, respondent No. 2-Randeep Singh Rana (here-in-after referred to as '**the accused**') stood acquitted of the charges under Sections 279/338/427 IPC.

The case of the prosecution, in nutshell, is that on 19.11.2000, complainant Mulkh Raj and his brother Sadhu Ram went to village Talheri by riding separate cycles in order to purchase buffaloes. At about 11.00 a.m., when they were returning and reached near the Namkeen Factory in the area of Tikri, then a Maruti car being driven by its driver in a rash and negligent manner came from behind and hit him. As a result, the

complainant suffered multiple injuries on his person. He became unconscious and was rushed to Saraswati Mission Hospital, Pehowa. Later on, he came to know that the offending vehicle bore registration No. CH-01-W-0810 and was being driven by the accused. The occurrence was witnessed by the complainant's brother Sadhu Ram.

Having heard learned counsel for the petitioner as well as learned State counsel and on going through the impugned judgment of acquittal, this Court finds that there was an unexplained delay of eleven days in lodging of the FIR. The explanation given by the prosecution is not plausible. According to the prosecution, the complainant was accompanied by his brother Sadhu Ram at the time of the accident but even said Sadhu Ram made no attempt to lodge the FIR.

The accused is not shown to have any intention of causing damage to the property of the complainant. Merely because the accused caused loss to the cycle of the complainant by driving his vehicle in a rash and negligent manner cannot make him responsible for committing the offence under Section 427 IPC. The prosecution even failed to establish that the accident was caused with Maruti car make Zen bearing registration No.CH-01-W-0810 as according to the mechanical report Ex.PW4/A, its front portion was found intact whereas

the headlight, show, bumper, body etc., were found in safe condition. Even no scratch whatsoever was found. In his cross-examination, Tara Chand, mechanic (PW4) admitted that the car was not re-painted till the date of test, which was conducted on 1.12.2000.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal.

The revision is without any merit and, accordingly, dismissed.

August 22, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No