

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

CRR No.1315 of 2016 (O&M)
Date of Decision: November 15, 2016

Surinder Singh

...Petitioner

VERSUS

Daya Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.C.Chaudhary, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Surinder Singh against respondents Daya Singh and State of Punjab, challenging the impugned judgment dated 09.05.2014 passed by learned Judicial Magistrate Ist Class, Ludhiana, vide which respondent No.1 was acquitted of the charges framed against him and also challenging the judgment dated 15.12.2015 passed by learned Addl. Sessions Judge, Ludhiana, vide which appeal filed by petitioner was dismissed.

From the record, I find that challan was presented against accused-respondent No.1 in case FIR No.44 dated 03.05.2011 under Sections 279, 304-A, 337, 338 and 427 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Ludhiana, are as under:-

Satnam Singh was present in Police Station Div. No. 2 as duty officer and one wireless message was received that death of one Kulwant Kaur W/o Tarsem Lal had taken place due to accident. On receipt of this message, HC Satnam Singh alongwith police officials went to Civil Hospital and met complainant Jagdev Lal s/o deceased Kulwant Kaur at the gate of the hospital and he got recorded his statement before HC Satnam Singh to the effect that on 3.5.2011 at about 6:30 am he was on his way to drop his mother Kulwant Kaur to Civil Hospital for duty and when they reached near Bhamian patrol pump then from back side one Swift Car bearing no. HR-70A-5421 was coming which was being driven by Surinder Singh Son of Meet Singh. He stopped the said car and requested the driver of the said car to drop his mother to Civil Hospital. The driver of the car agreed and his mother sat in the car. When they moved a little ahead and reached near Bhamian Chowk then from right side of the chowk one Indigo car bearing no.PB10-DA(T)-3094 which was being driven by a Sikh gentleman came in a very rash and negligent manner and without blowing horn, the driver of the said car struck his car into the above mentioned Swift car from the side on which his mother was sitting. Due to the accident his mother Kulwant Kaur died on the spot and the person who was driving the Swift car received injuries on his leg and his car was also damaged to a considerable extent. The offending vehicle was being driven by a sikh gentleman who fled away from the spot. Thereafter, he arranged a vehicle and took his mother as well as driver of the Swift car to CMC Hospital. On inquiry he later on came to know the name and address of the Sikh gentleman who was driving the offending vehicle as Daya Singh S/o Anant Singh. The accident was caused due to rash and negligent driving of the said driver. Action be taken against him.”

Learned JMIC, Ludhiana after appreciating the evidence, acquitted accused-respondent No.1 of the charges framed against him. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Ludhiana, vide judgment dated 15.12.2015.

Aggrieved from the above-said judgments, present revision petition has been filed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, first of all, I find that FIR was got recorded by Jagdev Lal son of deceased Kulwant Kaur and when he appeared before the Court, he did not support the prosecution version and has turned hostile. The version given by Jagdev Lal in the FIR was the first version that he has seen the accident and it occurred like this but first version is not supported by Jagdev Lal, which creates a reasonable doubt in the prosecution version. The other witness is injured Surinder Singh PW-4, who supported the prosecution version but the Court has discussed his statement. In his statement, he stated that Jagdev Lal has not seen the occurrence. As per the revision petitioner's case, Jagdev Lal has not seen the occurrence. If Jagdev Lal has not seen the occurrence, then the very base of the prosecution i.e. FIR cannot be believed.

Further, I find that, Surinder Singh, whose statement was recorded after four days of the accident, has stated that a sikh gentleman was driving the offending vehicle. No description has been given. Surinder Singh came to know the name of the driver at a later stage. PW-4 Surinder Singh has been duly confronted with his statement under Section 161 Cr.P.C. The offending vehicle after the occurrence fled away from the spot. There is nothing in the statement under Section 161 Cr.P.C. that if the drive is brought before the witness, then he can identify him. No identification parade has been got conducted in the present case. From the evidence on record, I find that identity of the accused has not been proved by the prosecution beyond reasonable doubt.

The findings given by learned JMIC, Ludhiana are correct, as per evidence and law. These findings cannot be held as perverse or against

the evidence. No illegality has been committed while acquitting the

accused. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below. The judgment passed by learned Addl. Sessions Judge, Ludhiana, dismissing the appeal, is also as per law.

Therefore, finding no merit in the present revision petition, the same is dismissed.

November 15, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No