

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.4650 of 2015

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Date of decision:25.2.2016

Ruldu Ram and another

...Petitioners

v.

Munshi Ram and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. B.P.S. Virk, Advocate for the petitioners.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 17.8.2015 passed by learned Additional Sessions Judge, Patiala, whereby the appeal filed against the impugned judgment of acquittal dated 5.9.2014 passed by learned Sub Divisional Judicial Magistrate, Samana, has been dismissed.

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

The brief facts of the prosecution case as mentioned in the impugned judgment dated 5.9.2014 passed by learned Sub Divisional Judicial Magistrate, Samana, are as under:-

“The present case emanates from statement dated 26.10.2009 made by complainant Ruldu Ram before the police to the effect

that he is resident of Garh Mohalla, Samana and was working as Manager in Samana Plastic Limited, Samana. On 22.10.2009 he along with Lachman Singh Chauhan Production Manager, Samana Plastic Ltd. Samana was standing outside of the main gate of the factory and were awaiting for some one, then at about 10.15 a.m. Rajesh Kumar son of Ram Saroop, resident of Anand Colony, Samana came from Samana side on his motorcycle bearing No.PB-42-B-6763 and he was driving on his proper side and was going towards Patiala. Then a car make Indica, colour red came from Samana side and was being driven on a high speed and in a negligent manner. When Rajesh Kumar was passing through the road in front of the factory they noticed that the above said Indica car hit the motorcycle of Rajesh Kumar from behind due to which the motorcycle of Rajesh Kumar fell down on the road and Rajesh Kumar suffered serious injuries on his head. The driver of the car stopped the car after covering some distance and the complainant and Lachman Singh Chauhan went to take care of Rajesh Kumar. The driver of the car ran away from the spot after leaving his car. They noted down the registration number of the car is HR-20-P-4027. Rajesh Kumar was taken to the doctor of Ashok Kumar where he was given first aid then he was taken to Amar Hospital, Patiala. On the basis of this statement the present case was registered. The matter was

[3]

investigated into and relevant memos were prepared. Accused was arrested and after completion of investigation challan against present accused was presented in the Court.”

The complainant-Ruldu Ram examined himself as PW-1, PW-2 Baljit Singh (retired Inspector), PW-3 ASI Santokh Singh, PW-4 Lachman Singh, PW-5 HC Piara Singh and PW-6 Dr. Arun Bansal.

After appreciating the evidence, the learned Sub Divisional Judicial Magistrate, Samana, acquitted the accused. The appeal was filed by the complainants i.e. present petitioners which was also dismissed vide judgment dated 17.8.2015 by the learned Additional District Judge, Patiala.

A perusal of the judgments passed by the Courts below shows that the findings, in no way, can be held as perverse or against the evidence. Otherwise also, it is a revision petition and in the revision petition the Court is not to re-appreciate the evidence like the Court of appeal. The Court is to see whether the order passed by the learned Court below is illegal, perverse or some material evidence has not been discussed or the evidence has not been discussed in the right perspective.

Learned counsel for the petitioner has not pointed out anything as to which material evidence has not been considered and discussed in the right perspective or which material evidence has been misread by the Courts below. No illegality has been shown in the findings of the Courts below. There is nothing to show that these judgments are perverse or against the law.

A perusal of the findings given by the learned Sub Divisional

[4]

Judicial Magistrate, Samana as well as Additional Sessions Judge, Patiala, are correct as per evidence and law. There are two eye witnesses in the present case, namely, Ruldu Ram and Lachman Singh. The occurrence took place on 22.10.2009, but the FIR was got registered on 26.10.2009 and there is delay of four days in recording the FIR. Both the eye witnesses Ruldu Ram and Lachhman Singh were not knowing the accused before the occurrence. As per the version of the complainant the accused while driving the Indica car on high speed hit the motorcycle of Rajesh Kumar and then stopped the car at a distance and after leaving the car fled away. PW-4 Lachman Singh while appearing in the Court has stated that they had seen the accused from the backside when he was running. His face was not towards the witnesses. Therefore, the witnesses could not see the accused at that time. Even in the FIR there is nothing that they had seen the accused at the time of occurrence. The identification of the accused in the Police Station by Ruldu Ram-complainant, in no way, can be held as test identification parade. The post-mortem report has not been proved in the present case. The occurrence took place on 22.10.2009 and Rajesh Kumar is stated to have died on 11.11.2009, but no document regarding the death of Rajesh Kumar has been proved. The post-mortem report has not been proved as per law. Similarly, original medical treatment record has not been brought by PW-6 Dr. Arun Bansal. The Courts below after discussing all this evidence in right perspective acquitted the accused. In the revision petition, this Court is not to re-appreciate the evidence like a Court of appeal. From the record, I find that the findings recorded by the Courts

[5]

below, in no way, can be held as perverse or against the evidence. No illegality has been committed by the Courts below. No evidence has been misread by the Courts below, rather, the evidence has been considered in right perspective. Therefore, both the judgments passed by the Courts below are as per evidence and law and do not require any interference from this Court.

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

February 25, 2016.

(Inderjit Singh)
Judge

hsp