

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

**CRR No.4825 of 2015(O&M)
Date of Decision: August 29, 2016**

Raju

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Gagandeep Singh, Advocate for
Mr.Amandeep Singh Manaise, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Raju against respondents State of Haryana and Ram Kumar, challenging the impugned judgment dated 22.12.2014 passed by learned Addl. Chief Judicial Magistrate, Ambala, vide which the accused-respondent No.2 was acquitted of the charges framed against him and also challenging the judgment dated 08.09.2015 passed by learned Sessions Judge, Ambala, vide which the appeal filed by the petitioner was dismissed.

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

From the record, I find that the challan was presented against Ram Kumar in case FIR No.85 under Sections 279, 337 and 304-A IPC registered at Police Station Mullana (Ambala). The brief facts of the case as noted down in the judgment passed by learned ACJM, Ambala, are as

“2. The FIR was lodged on the complaint Ex.PW2/A of Raju son of Rameshwar, R/o Tagal, P.S. Mullana, Distt.Ambala to the effect that on 19.06.2008 within the area of P.S. Mullana the above named accused drove Maxi Cab bearing No.HR-37/3553 in a rash and negligent manner on the public road as to endanger human life and personal safety of others and while driving the aforesaid vehicle in the above said manner caused death of Lakhvinder Singh. Legal action be taken against the above named accused. Thereafter, the case was registered and investigation was set into motion. Accused was arrested. On completion of investigation, Challan was forwarded to the Court for trial.”

Learned ACJM, Ambala, after appreciating the evidence, acquitted the accused-respondent No.2 by holding that PW-1 has testified that on 22.7.2008 vehicle No. HR-56-3553 was taken into possession vide memo Ex. PA and DL of accused was taken into possession vide memo Ex. PB, which bears his signature. PW2 has testified that on 19.06.2008, he along with his brother Lakhwinder was going home from Ambala to their home in Maxi Cab no. HR-37-3553 and when they reached near Brahman Majra than one truck came from Jagadhri side and rear portion of the Maxi Cab hit truck and his brother had received injury from iron sheet of Maxi Cab. He took his brother to Mulana Hospital and from where he was referred to PGIMS, Rohtak. During cross-examination, this witness stated that he has no proof of travelling in Maxi Cab. They were travelling in Maxi Cab no. HR-37-3553 and he had noted number of Maxi Cab as HR-37-3553 at the time of accident. He also stated that accused was not known to him before the accident. He (PW-2) admitted that in the claim petition filed by his parents he had given statement that accused was not known to him and he can not identify accused driver and the claim petition was dismissed.

Learned Magistrate after discussing the evidence in right perspective and by giving reasonable doubt, acquitted the accused. In the

judgment passed by MACT, which is Ex.D1, it was found that Raju has stated in his examination-in-chief that he was travelling in Maxi Cab, however, admitted that he was informed by SHO about the accident and he went to hospital after half an hour of getting information. The Magistrate has also reproduced the relevant portion of his cross-examination in his judgment.

PW-2 is the material witness but he is not certain about involvement of vehicle because in claim petition he has given different vehicle number. He has also not stated anything to ascertain rash and negligent act of accused.

In the appeal, learned Sessions Judge, Ambala, held that cross-examination of PW-3 also reveals that vehicle inspected by him was not accidental and except for a broken indicator, there was no other damage. This fact further creates doubt in the prosecution version.

In view of the above discussion, I find that the judgment dated 22.12.2014 passed by learned ACJM, Ambala and judgment dated 08.09.2015 passed by learned Sessions Judge, Ambala, are correct, as per law and do not require any interference from this Court. 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.

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

August 29, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No