

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.848 of 2016 (O&M)

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Date of decision:29.3.2016

Bachan Singh

...Petitioner

v.

State of Punjab

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Naveen Sharma, Advocate for the petitioner.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent-State.

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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 17.2.2016 passed by learned Sessions Judge, Patiala, vide which he set aside the judgment of acquittal passed by the learned Judicial Magistrate Ist Class, Nabha, and convicted and sentenced the accused/petitioner for the offences under Sections 279 and 304-A IPC.

Notice of motion has been issued in this case.

Ms. Shivali, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and contested this revision petition. Lower Courts record was also summoned and received.

I have heard learned counsel for the petitioner as well as learned Assistant Advocate General, Punjab and have gone through the record.

From the record, I find that police filed challan for the offences under Sections 279 and 304-A IPC in FIRNo.103 dated 7.12.2010 registered at Police Station Bhadson against accused Bachan Singh.

The brief facts of the prosecution case as mentioned in the judgment of the learned Judicial Magistrate Ist Class, Nabha in para-2 of the judgment are as under:-

“The allegations in brief against the accused as levelled by the prosecution are that present case was registered on the statement made by Gurtej Singh son of Bharopoor Singh resident of Village Charanthal Kalan in which he stated that on 7.12.2010 when he along with Sukhdev Singh were going on his motorcycle from his village towards Village Sadarpur Charan Singh and Ranjit Singh were also going ahead of them on another motorcycle bearing No.PB-23H-4148 towards Village Sadarpur and motorcycle was being driven by Ranjit Singh. At about 09.30 a.m. when they reached near petrol pump of Village Saholi then one Tata Safari vehicle bearing registration No.PB-65G(T) 8309 was coming from Bhadson side in rash and negligent manner and it hit the motorcycle of Ranjit Singh and Charan Singh from their back side and both Ranjit Singh and Charan Singh fell on the earth and died at the

spot and their motorcycle was also got damaged. On the basis of these allegations, the present case was registered against the accused. Investigation was carried out. During investigation, post-mortem of the accused were got done, their PMRs were obtained, spot map was prepared. DL of the accused along with documents of offending vehicle were taken into police possession vide separate memo. Accused was arrested. His arrest and personal search memo was prepared. Offending vehicle of the accused was taken into police possession vide separate memo. Mechanical examination of the aforesaid vehicles was got done and their mechanical reports were obtained. DL of the accused and RC of offending vehicle were got verified from the respective offices of DTO. On completion of investigation, the challan was prepared and presented in the Court.”

The learned Judicial Magistrate Ist Class, Nabha, vide judgment dated 10.9.2013 acquitted the accused by giving benefit of doubt. Appeal was filed by the State of Punjab against the judgment of the learned Judicial Magistrate Ist Class, Nabha, and the learned Sessions Judge, Patiala, vide judgment dated 17.2.2016 accepted the appeal and convicted the appellant Bachan Singh for the offences under Sections 279 and 304-A IPC and sentenced him to undergo simple imprisonment for six months for the offence under Section 279 IPC. He was further sentenced to undergo rigorous imprisonment for two years and to pay a fine of ₹10,000/- and in

default of payment of fine to further undergo rigorous imprisonment for six months. Both the substantive sentences were ordered to run concurrently.

I have gone through the record of the lower Courts as well as the judgments passed by the Courts below. The judgment passed by the learned Sessions Judge is correct as per evidence and law. In no way, the findings given by the learned Sessions Judge in the appeal can be held as perverse or against the evidence. Nothing has been pointed out as to which material evidence has been misread by the Court and which material evidence has not been considered by the Court below.

In the present case, Tata Safari vehicle driven by accused Bachan Singh hit the motorcycle of the deceased from the backside. As per the photographs proved on the record, the bumper of the Tata Safari vehicle was found damaged which supports the version of the prosecution that it hit the motorcycle from behind due to which two persons, who are on the motorcycle, namely, Ranjit Singh and Charan Singh received injuries and succumbed to the injuries. This Tata Safari vehicle bearing registration No.PB-65G(T)-8309 was left at the spot by the accused. It is also in the evidence of the PWs that the vehicle was left by the accused on the spot and then he fled away from the spot. The PWs have sufficient time to identify the accused. The identification parade had not taken place. It is not a ground for acquittal that holding of identification of the accused has not been proved. Two PWs deposed and identified the accused in the Court which is substantial piece of evidence. Identification parade is only a corroborative piece of evidence. The Court has also discussed this aspect as

the offences are bailable, therefore, the accused after the arrest is to be released on bail and he cannot be kept in judicial custody for the purpose of identification parade. Otherwise also, PW-6 has deposed that he is owner of the vehicle and the vehicle was taken from him by Bachan Singh and his nephew.

In the revision petition, this Court is not to re-appreciate the evidence like a Court of an appeal. The prosecution has duly proved its case by leading cogent evidence and no reasonable doubt exists in the prosecution version. The findings given by the learned appellate Court i.e. Sessions Judge, Patiala, are correct as per evidence and law. No illegality has been committed by the learned Sessions Judge by convicting and sentencing the present revision petitioner. The judgment passed by the learned Sessions Judge does not require any interference from this Court and the same is upheld.

Finding no merit in the criminal revision, the same is dismissed.

March 29, 2016.

(Inderjit Singh)
Judge

hsp