

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

**Criminal Revision No. 3738 of 2016 (O&M)
Date of Decision: March 30, 2017**

Vikram Singh

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. Jashanpreet Singh, AAG, Punjab.

Mr. Abhinav Sood, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

CRM-11086-2017

This is application for placing on record compromise deed
along with affidavit as Annexure A-2 (colly).

The same is taken on record subject to all just exceptions.

Application stands disposed of.

CRR-3738-2016

The petitioner was convicted and sentenced by Judicial
Magistrate, Dera Bassi for offences punishable under Sections 279,
304-A of Indian Penal Code.

The case of the prosecution in brief is that on 31.03.2006 Devender (deceased) was going on his Motor Cycle and was hit from behind by a jeep bearing No. CH-03Q-3765. The accident was witnessed by Iqbal Singh-complainant, who was going on his motor cycle with Balbir Singh.

During the trial, Iqbal Singh was examined as PW-1, who supported prosecution case. In defence, the accused-petitioner moved application for summoning of Balbir Singh son of Roda Singh, who was also on the motor cycle of the complainant at the time of accident. That application is on file of the trial Court at Page No. 63 and there is endorsement on application that it was filed on 05.10.2013.

On perusal of trial Court record with assistance of learned counsel for the petitioner and learned State counsel, it appears that this application escaped the attention of the trial Court and was not decided .

Learned counsel for the petitioner has argued that Balbir Singh is a material witness, who was allegedly present at the time of occurrence. Petitioner sought his examination in defence to bring on record the real facts and also to verify the veracity of the testimony of complainant.

Learned State counsel on going through lower Court's record submits that this application remained undecided by trial Court.

On giving a careful thought to submission of learned counsel for petitioner and keeping in view the fact that the application filed by the petitioner-accused was not decided by the trial Court, I find that great

prejudice was caused to the petitioner whose request for an opportunity to examine the material witness in support of his defence remained unattended. In case his request had been allowed, he would have got opportunity to shatter the prosecution version and on dismissal of his application, he could avail remedy to file revision or challenge order of trial Court in appeal.

Keeping in view, the above facts, the judgments of Courts below are set aside and case is sent back to the trial Court with the direction to decide the application dated 05.10.2013 filed by the petitioner and thereafter decide the case afresh.

Parties are directed to appear before the trial Court on 27.04.2017.

As the judgment of the Courts below have been set aside, the petitioner, who is in jail, is ordered to be released forthwith. Direction to this effect be sent to Superintendent Central Jail, Patiala, where he is stated to be lodged at present.

March 30, 2017
Jyoti-II

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***