

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44746-2018 (O&M)
DATE OF DECISION:-19.11.2018

VASDEV

...PETITIONER...

V.

MANOJ KUMAR @ RAJAN

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ashish Bansal, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

CRM-40393-2018

Application is allowed as prayed for. Certified copy of judgment dated 09.03.2016 (P-5) is taken on record. Be tagged at appropriate place.

Main case

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing/setting aside order dated 30.08.2018 (P-3) of the first appellate court, whereby application of the petitioner-complainant under Section 311 Cr.P.C. to lead additional evidence was dismissed.

Briefly, respondent No.1 was booked and tried in case FIR No.157 dated 25.08.2014, registered under Sections 279 and 338 IPC, at Police Station Sector 14, Panchkula. After trial in case FIR No.157 dated 25.08.2014, respondent No.1 was acquitted by the trial court vide

judgment 09.03.2016 (P-5).

Being aggrieved, the petitioner-complainant preferred appeal. During the pendency of appeal, petitioner-complainant moved application for leading additional evidence to examine Dhulia Ram, owner of the offending car, which has been dismissed by the first appellate court vide impugned order dated 30.08.2018 (P-3).

Learned counsel contends that respondent No.1 being driver of Dhulia Ram had made an extra judicial confession before him that he was responsible for causing the accident in question, resulting into head injury to the petitioner and damage to the car. Learned appellate court has failed to appreciate that petitioner ought not to have been made to suffer for lapse on the part of prosecution.

After having given anxious consideration to the submission made by learned counsel for the petitioner, this Court finds the instant petition completely devoid of any merit for the reasons to follow:-

Dhulia Ram was neither cited as a witness by the prosecution nor he ever came forward to make a request before court to record his statement qua aforesaid extra judicial confession of respondent No.1. Therefore, examination of Dhulia Ram, at the appellate stage is an after thought exercise for some extraneous reason.

In view of the above discussion, the instant petition is dismissed.

19.11.2018

sonika

whether speaking/reasoned:

whether reportable:

(RAMENDRA JAIN)

JUDGE

Yes/No

Yes/No