

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-2840-2018

Date of decision: 26.10.2018

Tarvinder Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. SP Soi, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, challenge has been laid to the judgment dated 05.05.2018 of the Ist Appellate Court, dismissing the appeal of petitioner against the judgment of acquittal dated 01.02.2017 of the trial Court, whereby respondent No. 2-Narinder Singh, was acquitted in case FIR No. 80 dated 04.04.2010 registered under Sections 323, 341, 506, 427 and 332 IPC at Police Station Sadar, Jalandhar.

Briefly, respondent No. 2-Narinder Singh, was booked and tried in the aforesaid FIR, on the allegations that on 04.04.2010, the petitioner while driving Punjab Roadways Bus, Nawanshahar Depot, was going to Jalandhar from Dera Beas. When he reached near Rama Mandi Chowk, Jalandhar, his bus struck against one white colour Innova car bearing registration No. CH-01-T-0166, owned by respondent No. 2-Narinder Singh, but no damage occurred to the said Innova car. However, when the petitioner reached near Bath Castle, respondents No. 2 parked his

persons armed with hockeys and base ball bats caused injuries to the petitioner and also broke the wind shield of the bus. After holding trial, respondent No. 2 was acquitted of the charges framed against him by the trial Court vide judgment dated 01.02.2017.

Being aggrieved, against the said judgment, the petitioner-complainant filed an appeal before the Ist Appellate Court, but remained unsuccessful as his appeal too was dismissed vide impugned judgment dated 05.05.2018.

Learned counsel for the petitioner *inter alia* contends that Conductor of the bus, namely; Kuldeep Singh, as PW-3, has supported the prosecution story by corroborating the statement of petitioner, but despite corroboration to the well cogent and convincing statement of the petitioner, the trial Court has wrongly and illegally acquitted respondent No. 2, ignoring the fact that opportunity was not given to the petitioner to examine the doctor as an additional witness to prove the injuries suffered by him. The trial Court in a haste manner without affording proper opportunities of adducing evidence to the petitioner closed the prosecution evidence and illegally acquitted the respondent. On one date, all the prosecution witnesses were present in Court, but they were not examined by the trial Court.

Having given anxious consideration to the submissions made by learned counsel for the petitioner, this Court finds instant revision completely devoid of any merit for the reasons to follow:

As per petitioner's version, respondent No. 2 and his accomplice have broken the wind shield of the bus, but no damage report was ever prepared or proved on the record during trial. Therefore, the trial

Court has rightly observed that prosecution has miserably failed to prove the offence under Section 427 IPC against respondent No. 2.

That apart, statement of PW-3-Kuldeep Singh, has rightly been disbelieved by the trial Court being an interested witness as co-employee of the petitioner and also in the absence of any independent corroboration in the shape of statement of some passengers of the bus, who were travelling in plenty at the time of occurrence.

Respondent No. 2-Narinder Singh, had already made to suffer the agony of protracted trial of 8 years which is more than sufficient from punishing him.

The case property i.e. hockeys which were, allegedly, used in the commission of crime were never sealed nor any identification mark was put thereon. Therefore, identity of the case property which was, allegedly, used in the commission of crime in the instant case also remained doubtful.

I have carefully gone through the impugned judgments of both the Courts below, which find mention that there were major discrepancies qua the manner, place and time of occurrence in the statements of prosecution witnesses. This Court is not inclined to differ with the findings recorded by the Courts below on the basis of material available on record.

Dismissed.

October 26, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**