

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

**Crl. Misc. No. A-1825-MA of 2017 (O&M)
Date of Decision: November 05, 2019.**

Satpal Singh

.....APPLICANT

VERSUS

Bhajan Singh

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Kehar Singh Hissowal, Advocate
for the applicant-appellant.

SURINDER GUPTA, J.(Oral)

Heard.

The applicant-appellant filed complaint for offences punishable under Sections 304-A, 279, 338, 427 of Indian Penal Code (for short IPC) against the respondent Bhajan Singh with the allegations that on 01.10.2010, his brother was coming on motor cycle from village Ladbanjara near the bus stand Kakuwala, at about 7:00 p.m. and met with an accident with some unknown vehicle. He received multiple grievous injuries and died at the spot. The matter was reported to the police and FIR No. 121 dated 01.10.2010 was registered. After some days, Shamsheer Singh son of Maghar Singh, resident of village Dugal met the complainant and told him that the accident had taken place due to rash and negligent driving of tractor Swaraj owned by respondent and he had witnessed the accident.

After receipt of complaint, learned trial Court recorded

preliminary evidence and summoned the respondent. He was charge-sheeted for the offences punishable under Sections 279, 304-A, 338 and 427 IPC to which he pleaded not guilty and claimed trial.

The complainant besides stepping as his own witness as CW-1, examined Maghar Singh as CW-2 and Shamsher Singh as CW-3.

Learned trial Court discarded the statement of complainant and CW-2 Maghar Singh, as both were not eye witnesses to the occurrence. Statement of CW-3 Shamsher Singh was discarded for the reasons as follows:

- (i) CW-2 Maghar Singh has stated that Shamsher Singh was having visiting terms with his family and had been attending the marriage ceremonies and other functions.
- (ii) The Court did not find the conduct of Shamsher Singh as reliable. He had stated that on witnessing the accident, seeing injured-Hakam Singh in the pool of blood and despite having close relations with the family of Hakam Singh, he did not intimate any of his family members nor did he inform the police or took any steps to arrange medical help for him.
- (iii) Shamsher Singh has stated that he left the spot and after few days apprised the complainant of the accident.

Learned trial Court while discarding his statement has observed as follows:

“He also stated that he is having good relations with the family of Hakam Singh and visits at the time of sorrow and happiness and even then, how he allowed himself to leave the spot,

leaving Hakam Singh in injured condition. If the said accident was caused by Bhajan Singh, then why he has not intimated the police or the family member of Hakam Singh”.

Learned counsel for the appellant has argued that though the complainant and Maghar Singh are not the eye witnesses but there was no reason to disbelieve the testimony of CW 3-Shamsher Singh. Though, he had not intimated the police or the family member or had taken any steps to provide medical aid to injured-Hakam Singh, his statement could not be discarded because he never wanted to involve himself in police proceedings. He was an independent witness and learned trial Court has committed grave error while discarding his statement.

It is not disputed that Shamsher Singh was close to the family of the deceased and complainant. He cannot be termed as independent witness. His conduct has been rightly watched as commented upon by the trial Court. It is highly unbelievable that some acquainted person with the family, witnessed the injured in pool of blood and stayed at the spot for 5-7 minutes but took no steps to inform the family member or police or refrained from taking any steps to arrange medical assistance for the injured, only for the reason that he did not want to involve himself in police proceedings. As per the complainant, Shamsher Singh had apprised him after some days as to how the accident had taken place. He had also appeared as witness in the Court. If so, there was no reason for him not to apprise the family about the accident and to provide immediate medical assistance to the injured.

I am of the opinion the trial Court has committed no error

while discarding his statement.

On perusal of the judgment, I find no illegality or infirmity in it calling for any interference to allow leave to appeal to the appellant.

This appeal has no merits.

Dismissed.

(SURINDER GUPTA)
JUDGE

November 05, 2019
Jyoti-II

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>