

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1620-2012

Date of Decision: September 02, 2019

Angrej Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vipul Aggarwal, Advocate, for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

Harnaresh Singh Gill, J.

Challenge in the present petition is to the judgment and order dated 18.5.2012 passed by the learned Sessions Judge, Amritsar, whereby while setting aside the judgment of acquittal dated 6.6.2011 passed by the learned Sub Divisional Judicial Magistrate, Baba Bakala, District Amritsar, the petitioner was convicted under Sections 286, 427 and 435 IPC and sentenced to undergo RI for six months under Section 286 IPC; RI for two years under Section 427 IPC and RI for four years under Section 435 and to pay a fine of Rs.5000/- and, in default of payment of fine to further undergo RI for six months. All the sentences were ordered to run concurrently.

As per the case of the prosecution, on 17.8.2007, ASI Tarsem Singh along with other police officials of Police Station Beas, was present at the bus stand Beas, where he received a telephonic message regarding a bus having caught fire

on G.T. Road near the bridge. He sent for a Fire Brigade of Radha Swami Dera, Beas. He along with the other police officials, reached the spot. There, complainant Ninder Singh, conductor of the bus, got his statement (Ex.P1) recorded, stating therein that he was working as a Conductor in the Punjab Roadways, Depot 1, Amritsar; that accused-petitioner Angrej Singh was the driver of the bus; that on 17.8.2007, he had been on duty as conductor and the petitioner as driver of bus No. PB-02-AP-9924 going from Amritsar to Shimla; that when they were to leave from Roadways Workshop at Amritsar at about 7.15 p.m., then Shri Vijay Kumar, Yard Master, told them that Shri Amritpal Singh, Deputy Director, Punjab Roadways, had given a telephonic call that two gas cylinders were to be collected from Gas Agency of Anokh Singh, an employee of Roadways, at village Fattuwal near Rayya and were to be delivered to the Supervisor at Bus Stand, Sector 43, Chandigarh; that they had left the bus stand Amritsar at 7.50 a.m. having 30/35 passengers and from Gas Agency of Anokh Singh at village Fattuwal, petitioner – Angrej Singh, took two gas cylinders and placed one in front of the bus and the other on the rear portion; that when they were a little short of bridge of Beas, in the area of Beas, the gas cylinder placed in front started leaking; upon this the petitioner had stopped the bus and the passengers got alighted; that the bus cylinder got burst and the bus caught fire; the bus tickets also got burnt and that a bag containing cash amount of Rs.28,000/- belonging to Shivcharan Goyal, resident of 117, Shalimar Bagh, Delhi, also got burnt. Upon this statement, FIR, Exhibit PB, was

recorded. Investigation in the matter was conducted and the burnt bus along with the two cylinders were taken into possession. Statements of the witnesses were recorded. The petitioner was arrested and later and later admitted to bail.

After completion of investigation and necessary formalities, challan was presented against the petitioners.

Charges were framed against the accused-petitioners under Sections 286, 427 and 435 IPC. The accused pleaded not guilty and claimed trial.

In order to prove its case, the prosecution had examined as many as 4 witnesses.

In the statement recorded under Section 313 Cr.P.C, the accused denied the charges and pleaded false implication.

The learned trial Court, vide judgment dated 6.6.2017 acquitted the petitioner-accused of the charges levelled against him. However, as noticed above, in appeal, the learned Sessions Judge, Amritsar, set aside the judgment and acquittal and convicted and the sentenced the accused-petitioner, as detailed above.

Aggrieved there-against, the petitioner has filed the present revision petition.

Learned counsel for the petitioners submits that the learned Appellate Court has misread and misinterpreted the evidence on record, inasmuch as the complainant Ninder Singh, being conductor of the bus, himself was responsible to ensure that no inflammable articles are placed in the bus and that, thus, on the basis of the statement of the complainant, the

prosecution ought not to have been launched against the petitioner. It is further stated that in the departmental proceedings initiated against the petitioner, he was exonerated of the charges levelled against him. In the departmental inquiry proceedings, it was found that the bus did not catch fire on account of negligence of the petitioner, but because of the short circuit of the wires of the bus. As a result of his exoneration, the petitioner was reinstated in service and since then he has been serving the Department with no complaint of any nature and to the satisfaction of the superior authorities.

On the other hand, learned State Counsel submits that the complainant, being the conductor of the bus, had clearly mentioned that it was the petitioner-driver himself who got the cylinders placed in the bus, might be on the orders of some official(s) of the Department. Thus, the said version, being at the earliest point of time, could not be doubted. Still further, though the learned trial Court, had acquitted the petitioner of the charges framed against him, yet the learned Appellate Court, while giving the detailed reasons viz., the investigation in the case had been carried out in a fair and impartial manner; that as the statement of the complainant on the basis of which FIR was recorded, had been recorded soon after the incident ruling out any chance of fabrication or false implication and that there had been no representation from the complainant to the higher authorities of the department. It is, thus, contended that the findings recorded by the learned Appellate Court, deserve to be upheld.

I have heard learned counsel for the parties and with their able assistance have gone through the records of the case.

At the very outset, it may be noticed that on the same set of allegations, which are the basis of the criminal prosecution, the petitioner was proceeded against departmentally. However, in such proceedings, the petitioner had been exonerated of the charges imputed against him as it was established in the departmental proceedings that the bus got burnt on account of the short-circuit of the wires of bus.

Still further, a perusal of the statement of complainant-Ninder Singh, who was examined as PW3 would show that he had admitted that he being the conductor of the bus, it was his duty to issue tickets; allow the entry of passengers and the luggage to be kept in the bus. Still further, the said witness stated that he did not get recorded in the FIR that he had ever stopped the petitioner from keeping the cylinders in the bus. The said witness also denied that the bus caught fire with the negligence of the driver.

Yet further, a perusal of the testimony of PW2-Vijay Kumar, Yard Master, who as per the complainant, is alleged to have asked the petitioner to keep two cylinders in the bus, did not utter a single word regarding the same, neither any suggestion in this regard had been put to the said witness. The owner of the gas agency, from where the cylinders, had been obtained, was also not examined by the prosecution. Mr. Amritpal Singh, Deputy Director, Punjab Roadways, on whose

alleged telephonic call, the cylinders were placed in the bus, had also not been examined as a witness.

All the aforesaid circumstances clearly show that the chain of evidence is not complete in the instant case. Mere presence of cylinders in the bus did not prove that it was the petitioner, who had intentionally and willfully kept the cylinders in the bus. Assuming that the cylinders had been kept on the directions of the higher officials of the Department, even then said fact ought to have been proved by the prosecution by leading cogent and convincing evidence so as to unearth the truth and record a finding of guilt as regards the real culprit(s). This clearly establishes that the petitioner has been made a scapegoat, whereas the alleged beneficiary of the cylinders or the official(s) issuing the directions for executing their dictum, have been left out of the purview of the prosecution.

Though it is settled law that the criminal proceedings may go on irrespective of the departmental proceedings, yet when the very foundation of the criminal prosecution is also part of the departmental proceedings and the employee is exonerated in the departmental proceedings, the said exoneration can be taken into consideration, while deciding the criminal proceedings.

In view of the above, in my considered opinion, the judgment and order passed by the learned Appellate Court cannot be sustained. The same are accordingly, set aside and the judgment of the learned trial Court is restored, though for

the different reasons. Consequently, the petitioner is acquitted of the charges framed against him.

(HARNARESH SINGH GILL)
JUDGE

September 02, 2019
ds

Whether Speaking/ Reasoned:	Yes/ No
Whether Reportable:	Yes/ No