

CRR-4964 of 2016

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

CRR-4964 of 2016
Date of Decision: 18.03.2019

Bhola Ram

....Petitioner

Versus

Paramjit Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. M.S. Dhaliwal, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through instant revision, petitioner Bhola Ram, as a victim, on account of death of his son Kulwinder Kumar, besides one Gurnaib Singh has laid challenge to the judgment of Appellate Court dated 12.09.2016, affirming the judgment of the Trial Court dated 05.07.2016, acquitting respondent No.1 under Sections 279, 427, 304-A IPC.

Briefly, respondent No.1 was booked and tried in case FIR No.27 dated 27.04.2015 registered under Sections 279, 427, 304-A IPC at Police Station Sadar Sangrur, on the allegations that in the day time of 27.04.2015, Gurnaib Singh driving his motorcycle with his friend Kulwinder Kumar as a pillion rider was coming from Sangrur to his Village Phummanwal. When they reached Village Phummanwal, a white car driven by respondent No.1, coming from Patiala side hit their motorcycle by coming from wrong side. As a result thereof, Gurnaib Singh and Kulwinder Kumar fell down on the road causing multiple injuries to both of them. Gurnaib Singh succumbed to his injuries on the spot, whereas Kulwinder Kumar on the way to hospital.

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dated 05.07.2016 by the trial Court.

Being aggrieved, petitioner approached the First Appellate Court, but remained unsuccessful as his appeal too was dismissed vide judgment dated 12.09.2016 by the Appellate Court.

Learned counsel for the petitioner *inter alia* contends that both the Courts below failed to appreciate that offending car bearing registration No.PB-31-K-1419 being driven by respondent No.1 was recovered by the police from the accidental spot. Therefore, respondent No.1 ought to have been convicted, even, if alleged eye-witnesses, namely, Balwinder Singh and Sukhwinder Singh turned hostile, because complicity of respondent No.1 in causing accident in question was proved during trial beyond any shadow of doubt. Both the Courts below also failed to appreciate that in a claim case before the Motor Accident Claims Tribunal, both the aforesaid witnesses supported the prosecution story, but in the instant case they turned hostile.

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

No question of law much less substantial has been raised in this revision.

This Court while exercising its revisional power has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any

such infirmities in the judgments of both the Courts below.

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Recovery of alleged offending car from the accidental spot has no material bearing as it was owned by one Sandeep Kumar and not by respondent No.1. No eye-witness account was available with the trial Court showing complicity of respondent No.1, in causing the accident in question.

The evidence led by complainant in claim case in MACT cannot be made the basis to convict a person, inasmuch as a claim case is tried as a summary case, whereas, in a criminal trial, minimum requirement for the prosecution is to establish the guilt of the accused, beyond any shadow of doubt.

Since in the instant case, both the eye-witnesses have turned hostile and have not supported the prosecution story, therefore, this Court is not inclined to differ with the findings recorded in judgments of both the Courts below.

I have gone through the judgments of both the Courts below and find no illegality or perversity in the same being based on appreciation of evidence.

Dismissed.

March 18, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No