

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-2644-2018

Date of decision: 11.03.2019

Surender Singh Dhillon

..... Petitioner

Versus

Bhup Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. JP Sharma, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, petitioner has laid challenge to judgment dated 26.04.2018 of the Ist Appellate Court, whereby it acquitted respondent No. 1-Bhup Singh, while reversing the judgment of conviction of the trial Court dated 11.07.2016, holding him guilty under Sections 279, 337 and 338 IPC and order of sentence dated 13.07.2016, whereby respondent No. 1 was sentenced as under:

Section	Sentence	Fine
279 IPC	Rigorous imprisonment for six months.	Rs.1000/-. In default thereof, to undergo rigorous imprisonment for 10 days.
337 IPC	Rigorous imprisonment for six months.	Rs.500/-. In default thereof, to undergo rigorous imprisonment for 30 days.
338 IPC	Rigorous imprisonment for two years	Rs.1000/-. In default thereof, to undergo rigorous imprisonment for 30 days.

Briefly, in the day time of 09.05.2013, petitioner was standing outside the shop of his brother situated near Subhash Park, Narnaul, District Mahendergarh. In the meantime, his father Kanwar Singh, coming on a Activa scooter bearing registration No. HR-35-F-2928, as pillion rider, being driven by Pardeep, was hit by truck bearing registration No. HR-63-B-0830 from backside. As a result thereof, his father Kanwar Singh, received minor injuries. However, driver of the offending truck succeeded in fleeing away from the spot, but his name was disclosed by its cleaner.

On these broad allegations, respondent No. 1 was booked, tried, convicted and sentenced in case, FIR No. 210 dated 09.05.2013 registered under Sections 279,337, 338 and 427 IPC at Police Station City, Narnaul, by the trial Court in the manner as narrated above.

Being aggrieved, respondent No. 1 preferred appeal Ist Appellate Court, while accepting his appeal, set aside the judgment of conviction and order of sentence of the trial Court, vide impugned judgment dated 26.04.2018.

Learned counsel for the petitioner, *inter alia* contends that impugned judgment of the Ist Appellate Court, is based on surmises and conjectures. The Ist Appellate Court, has erred in setting aside well reasoned judgment of the trial Court and has wrongly acquitted respondent No. 1. There was ample evidence on record to prove complicity of respondent No. 1, in causing the alleged accident, in which father of the petitioner received minor injuries.

Having given thoughtful consideration to the submissions of

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.

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

After going through the impugned judgment of Ist Appellate Court, this Court does not find any such infirmity, inasmuch as, the same is well-reasoned and based on appreciation of evidence. Therefore, the same is not required to be interfered with.

According to the prosecution, the petitioner came to know the name of driver of the offending truck i.e. respondent No. 1 through his cleaner. However, the said cleaner was not examined, during trial for the reasons best know to the prosecution. The petitioner even did not ever testify that he knew the driver of the offending truck, prior to the accident, therefore, he could identify him on the spot. The police also did not conduct any identification parade to establish the identity of respondent No. 1. Even the registered owner of the truck was not examined by the prosecution to show that respondent No. 1 as his employee was driving the offending truck at the time of accident. Therefore, in the absence of any such evidence, it is apparent that the prosecution during trial has miserably failed to establish the identity of respondent No. 1, who has already faced protracted trial for around 5

years, inasmuch as, FIR was registered on 09.05.2013.

I have carefully gone through the impugned judgment and find no illegality or infirmity in the same.

The instant revision, being meritless, is dismissed.

March 11, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No