

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Revision No. 2964 of 2018
Date of Decision: 05.12.2019**

Dharampal

.....Petitioner

Versus

Birender Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Dr. Deepak Jindal, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.

The petitioner has preferred this petition being aggrieved of the judgment dated 16.3.2018, passed by Sessions Judge, Rewari, vide which the appeal filed by him, challenging the order passed by Judicial Magistrate Ist Class, Kosli vide which the respondent-accused was acquitted in case FIR No. 93 dated 10.6.2014 under Sections 279, 337 IPC, registered at Police Station Kosli, was dismissed.

The brief facts of the present case are that complainant-petitioner Dharampal got recorded his statement to the effect that on 8.6.2014, he along with his nephew Parveen Kumar were going to village Mumtajpur on two separate motorcycles. Parveen Kumar, who was ahead of him, was riding the bike bearing registration No. HR-43-A-8019. When they reached near Hotel Red Rocks on Nahar-Kosli road, a tempo driver while driving the tempo at a fast speed and in rash and negligent manner, hit the motorcycle of Parveen. As a result of this, Parveen fell down on the road. The tempo driver disclosed his name as Birender Singh. Parveen had

got severe injuries and became unconscious. He was taken to Max Hospital, Kosli from where he was referred to Paras Hospital, Gurgaon. The tempo driver fled away from the spot along with his tempo. On the basis of the statement of the complainant, the FIR in question was registered. During treatment, Parveen had succumbed to his injuries and, therefore, Section 337 IPC was deleted and Section 304-A IPC was added accordingly.

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

Charges were framed against the accused under Sections 279-304-A IPC to which he pleaded not guilty and claimed trial.

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

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

No witness was examined by the accused in his defence.

The trial Court vide judgement 13.6.2016 acquitted the accused of the charges framed against him.

The appeal preferred by the petitioner against the order of acquittal, was dismissed by the Appellate Court vide judgment dated 16.3.2018. Hence, the present revision petition.

I have heard the learned counsel for the petitioner and have gone through the paper book and of the view that there is no merit in the present petition.

As per the MLR Ex. PW1/B dated 8.6.2014, placed on record before the trial Court, the injured was brought by Lok Ram and not by the complainant, despite the fact he was going with the deceased on another

motorcycle. Further no witness by name of Lok Ram was examined by the prosecution. Complainant PW-3 had deposed that about 10-15 persons had gathered at the spot but no independent witness was examined by the prosecution. The complainant was the eye-witness to the alleged accident but his testimony was not found to be trustworthy. Further, the complainant deposed that no damage had been caused to the offending tempo and no mechanical report of the said vehicle was placed on record. A doubt arose regarding the identity of the offending vehicle which was an important link in order to establish the guilt of the accused.

In view of the above, I do not find any infirmity or perversity in the findings recorded by the Courts below.

The petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

December 05, 2019

Gurpreet

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