

(221)

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-497-MA-2017
Date of decision : 07.02.2020

Ram Chander

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sagar Aggarwal, Advocate
for the appellant.

Mr. Sulinder Kumar, AAG, Haryana.

...

VIVEK PURI, J. (Oral)

The complaint has been lodged by the petitioner-complainant against the respondents No.2 and 3 on the allegations that on 15.02.2010, his nephew Sajjan had gone to Bhiwani on motor cycle bearing No. HR-18D-7269 and while returning back, respondent No.2-accused, who was driving Scorpio No.HR-61-3709, hit the motorcylce, resulting into a head on collision and causing the death of his nephew. The matter was reported to the police. An FIR bearing No. 83 dated 16.02.2010 under Sections 279 and 304A, IPC was registered at Police Station Tosham. It has been alleged that the respondent No.2 was driving Scorpio vehicle and respondent No.3 was driving Jeep Mahendra Max No. HR-61-3922 in a rash and negligent manner and high speed for the purpose of fetching more passengers.

The complainant was examined as CW-1, eye-witness Sudhir was examined as CW-2 and Dr. Inderjeet Goyal, who proved post-mortem report, was examined as Ex-CW-3.

Learned trial Court has recorded the finding of the acquittal primarily on the score that the occurrence took place on 15.02.2010 and the complaint was instituted on 13.11.2010, i.e., after the period of nine months. Although, an FIR was registered but significantly untraced report was submitted by the police. Moreover, CW-1 complainant was not an eye-witness at the place of occurrence. PW-3 was the formal witness, who proved the postmortem report.

The trial Court has declined to place reliance upon the deposition of Sudhir CW-2 on the score that he happened to be a chance witness and the conviction cannot be based solely upon his testimony. There was no mechanical examination report of vehicles on the file to establish the fact that the accident has been caused by the vehicles of the respondents. Even no photographs of the place of occurrence were placed on record. No police official was summoned and examined to prove the details of the investigation and fact of recovery of offending vehicles. Even the vehicles were not recovered from the place of occurrence. It is also emerging in the statement of CW-2 that there were passengers in both the vehicles but no passenger was examined to establish the rash and negligent driving of the vehicles on the part of any of the respondents or alleged collision having been caused by them.

It may be mentioned here that in an appeal against acquittal, if two views are possible and the Court below has acquitted the accused, the Appellate Court would not be justified in setting aside the acquittal merely because other view is also possible. The Appellate Court cannot substitute its reasons or possible view, if the view of the learned trial Court while acquitting the accused was the possible view. Furthermore, the acquittal of the accused also bolsters the presumption of their innocence.

In such circumstances, the view taken by the learned trial Court appears to be reasonable and probable and doesn't suffer from any perversity, illegality or error, which may call for any interference or indulgence by this Court.

Leave to appeal declined.

(VIVEK PURI)
JUDGE

07.02.2020
Pardeep

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