

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

CRR-3881-2015
Reserved on: 13.12.2022
Date of Decision: 20.12.2022

Nand Lal

....Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ashok Kumar Sama, Advocate, for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

None for respondent No.2.

HARNARESH SINGH GILL, J.

Challenge in the present petition is to the judgment 20.07.2015 passed by the learned Additional Sessions Judge, Fazilka, whereby while setting aside the judgment and order dated 14.11.2014, passed by the Judicial Magistrate, Ist Class, Fazilka, respondent No.2 was acquitted of the charges framed against him.

Vide the judgment of conviction and order of sentence dated 14.11.2014, respondent No.2-Jaswant Singh was convicted of the offences under Sections 279, 337 and 338 IPC and sentence to undergo RI for six months and to pay a fine of Rs.500/- each, under Sections 279 and 337 IPC and RI for one year and to pay a fine of Rs.1000/- under Section 338 IPC, besides default stipulations.

Learned counsel for the petitioner would argue that the learned lower Appellate Court, has allowed the appeal filed by respondent No.2 solely on the ground that there was delay of 21 days in lodging the FIR and that it further erred in law in holding that when the petitioner was admitted in the hospital, an eye witness (Lachhman Dass) could have lodged the FIR. It is further submitted that the petitioner and respondent No.2, being the residents of the same village, talks of compromise were going on between them and when the matter could not mature, the petitioner was left with no alternative except to lodge the present FIR.

It is further submitted that on the basis of the evidence on record, it stood proved before the trial Court that it was respondent No.2-Jaswant Singh, who while driving his motorcycle in a rash and negligent manner, had stuck his motorcycle with that of the petitioner due to which he fell down and suffered a fracture on his leg besides receiving various other injuries. It is yet further submitted that the delay in registration of the FIR, had been dealt with by the trial Court and it was found that the petitioner was admitted in Amandeep Hospital on 10.10.2011 and was discharged on 20.10.2011 and the said version was corroborated by PW1-Lachhman Dass, an eye witness besides the medical records; that in his statement Exhibit P.1, the complainant had categorically stated that the talks for compromises were going on, but the same could not mature and that the delay of 21 days, in such circumstances,

could not have been held to be fatal to the case of the prosecution.

It is argued that learned Appellate Court has set aside the said well reasoned finding by holding that if injured-Nand Lal was admitted in the hospital, PW1-Lachhman Dass, who was stated to be an eye witness, could have got the FIR registered, but he did not inform the police in this regard and rather his statement was only recorded on 31.10.2011 and that such findings of the Appellate Court suffer from patent illegality.

On the other hand, learned State counsel, while defending the findings recorded by the Appellate Court, submits that in the given circumstances, the Appellate Court, took the most plausible view and rightly held that the delay of 21 days in lodging the FIR was unexplained.

However, there is no representation on behalf of respondent No.2.

I have heard learned counsel for the petitioner and the learned State counsel and have also gone through the judgments and order passed by the Courts below.

The present petition has been pending since 2015. The petitioner avers that the delay of 21 days in lodging the FIR was duly explained. However, on the other hand, the Appellate Court, has held contrary.

The Appellate Court has found that though the accident is stated to have taken place on 10.10.2011, yet no information was given to the police and that information in this regard was given to the police only on 31.10.2011. It was further

found that though the petitioner had pleaded that the talks of compromise were going on between the parties, yet no evidence in this regard, was produced on record. It was further held that even the petitioner was discharged from the hospital on 20.10.2011, but still he had waited till 31.10.2011 in getting the FIR registered.

This Court finds no fault with the findings recorded by the Appellate Court. On the face of the evidence of the petitioner-being injured in the matter, coupled with other evidence on record, including that of the IO-Om Parkash, who stated that he got the information regarding the accident only on 31.10.2011, the view taken by the Appellate Court that the delay in registration of the FIR was not explained, calls for no interference. Rather, in the given facts and circumstances and the evidence on record, the said view seems to be a rational one.

No other point has been urged.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

20.12.2022
ds

(HARNARESH SINGH GILL)
JUDGE

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