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

**CRR-3686-2018 (O&M)
DECIDED ON: 31.08.2022**

RANJIT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Harsh Aggarwal, Advocate
for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

SANDEEP MOUDGIL, J.

1. Aggrieved against the impugned judgment of conviction dated 15.10.2018, passed by the Lower Appellate Court, vide which the judgment of acquittal dated 12.01.2017, passed by learned trial Court, was reversed, the instant revision petition has been preferred by the accused-petitioner.
2. The prosecution story as unfolded before this Court in the present FIR No.11, dated 23.02.2014, under Section 304-A/279/427 of the IPC, registered at Police Station Sadar Rampura, District Bathinda, is that on 22.02.2014 at 08.00 PM, the police received a telephonic information from P.S. City Rampura, regarding death of Jagjit Singh due to accidental injuries. The Investigating Officer accordingly reached Civil Hospital, Rampura, where dead body of the deceased was kept lying and the father of the deceased, namely, Darshan Singh-complainant was present there. He got his statement recorded, alleging that Jagjit Singh was his elder son, who was married. It is further stated that the complainant was present at his fields,

which are adjacent to G.T. Road, Tapa-Barnala Road, Jagjit Singh was coming from village Jethuke on Motorcycle bearing No.PB-57-3564. In the meanwhile, one canter bearing No. PB10-EH-2661, coming from Barnala side on high speed, hit the motorcycle, due to which Jagjit Singh fell on the road, who suffered head injury and resultantly died at the spot. The canter driver stopped and alighted therefrom, who revealed his name as Ranjit Singh son of Sukhdev Singh. As the complainant got busy in looking after his deceased son Jagjit Singh, lying on the road, the driver of the canter ran away from the spot taking advantage of the situation.

3. After recording the statement of the complainant, a ruqa was sent to the police station, on the basis of which the present FIR was registered and statements of certain witnesses were also got recorded. The accused Ranjit Singh was arrested, who was later on admitted to bail. After completion of investigation, challan against the accused was presented before the competent Court.

4. Copies of challan were supplied to the accused free of costs. On being charged under Sections 279 and 304-A of the IPC, accused pleaded not guilty and claimed trial.

5. The prosecution has examined the following witnesses:-

PW-1- Dr. Mehtab Singh

PW-2- ASI Satpal Singh

PW-3- Malkit Kaur

PW-4/PW-5- Chamkaur Singh

PW-6- ASI Chiman Lal

PW-7- Gurtej Singh

PW-8- Darshan Singh

Thereafter, closed its evidence.

6. Statement of accused Ranjit Singh under Section 313 Cr.P.C., was recorded, wherein he pleaded innocence, false implication and claimed trial.

7. In defence, accused did not lead evidence nor examined any witness and closed their evidence.

8. Learned counsel for the petitioner has argued that the judgment passed by the Lower Appellate Court is based on surmises and conjectures as also on the basis of assumptions and presumptions without application of judicious mind. He has further contended that although the appeal was not maintainable before the learned Court of Sessions and therefore, could not have reversed the well-reasoned judgment of acquittal passed by the trial Court dated 12.01.2017. It is further submitted on behalf of the petitioner that there is a delay of one day in lodging the FIR, as the alleged accident took place on 22.02.2014 at 3:00 p.m. but the FIR was lodged on 23.02.2014 at 11:00 a.m., however, the delay remained unexplained. Learned counsel for the petitioner also urged that there were number of persons, who had gathered at the place of occurrence but no independent witness was produced by the prosecution to prove the accident and negligence of the petitioner-accused with regard to the alleged offence.

9. Much stress has been laid on behalf of the petitioner that PW-7 Gurtej Singh and PW-8 Darshan Singh, the alleged eye-witnesses, appear to be planted witnesses being the uncle and father of the deceased, as there is nothing on record to show that PW-7 Gurtej Singh and PW-8 Darshan Singh brought the deceased to the hospital. In fact the presence of both the witnesses was disputed stating that it is the deceased, who might have skidded of his own and died on receiving head injury on his sudden fall.

There is no evidence to bring on record showing any impact on the offending canter in the form of scratch or dent on any part of its body to say that it was involved in the accident and hit the motorcycle.

10. On the other hand, Mr. Shubham Kaushik, learned AAG, Punjab has contended that the judgment passed by the lower Appellate Court is well reasoned and on a minute appreciation of the material on record. He has argued that the father of the deceased-PW7 Darshan Singh-complainant is the eye-witness, who was working in the fields at that time and saw the offending canter coming on a fast speed, which hit the motorcycle of his deceased son. Such evidence of PW-7 Darshan Singh has also been corroborated by PW-8 Gurtej Singh, who deposed that the driver of the canter was driving at the relevant time in rash and negligent manner. Learned State counsel concluding his submissions urging that the star witnesses have been duly examined by the defence, which failed to shatter their credibility.

11. Heard learned counsel for the respective parties.

12. This Court while examining the evidence on record with precision, it is evident that the complainant and alleged eye-witnesses i.e. PW-7 and PW-8, stated that their statements were recorded by the Police on that very day of alleged occurrence but to utter surprise and dismay of this Court, none of these statements are available in the judicial record. Even the photographs taken by the prosecution once the Investigating Officer reached the spot of alleged accident, are not put into evidence. The medical evidence also shows only one single injury i.e., a lacerated wound on the right frontal bone of skull of the deceased Jagjit Singh, which is contrary to the ocular evidence.

The death of the deceased is due to extradural and subdural hematoma. The

story of the prosecution and the medical evidence are contradictory to each other, which renders the version of the prosecution doubtful. As per the mechanical report proved by PW-2 ASI Satpal Singh, of the canter clearly shows that there are no marks of any accident on the body of the offending vehicle. In the absence of which, it cannot be safely concluded that the said canter met with an accident as alleged by the complainant-Darshan Singh.

13. In the light of settled principle of law, I am also conscious of the ratio that the judgment of acquittal is to be interfered by the Appellate Court only having substantial and compelling reasons in the light of the fact that the findings returned by the trial Court had the advantage of seeing the witnesses and recording of their evidence. An abundant caution is to be exercised by the Appellate Court before reversing any judgment of acquittal in particular to the effect that after marshaling of entire evidence on record, the judgment impugned is either perverse or unsustainable in law.

14. This Court having examined the evidence within the yard sticks has to ensure that miscarriage of justice should not occur.

15. There is delay in lodging the FIR of almost 20 hours from the occurrence especially when the deceased died at the spot. As per the prosecution story, the Investigating Officer reached at the spot, had taken photographs, though the same are not placed on record. Further the case was got registered merely on the basis of statements of father of the deceased PW-7 and uncle of the deceased PW-8.

16. All the aforesaid facts and circumstances including the evidence led by the prosecution, could not convince this Court to hold the guilt of the accused-petitioner beyond reasonable doubt the basic principle of criminal jurisprudence.

17. In view of the above, this Court does not find any infirmity and perversity in the judgment dated 12.01.2017, passed by the learned trial Court, wherein the Lower Appellate Court has committed grave illegality and on erroneous reasons passed the judgment of conviction dated 15.10.2018, suffering from perversity and, therefore, is unsustainable.

18. Accordingly, the judgment of conviction 15.10.2018, passed by the Lower Appellate Court is set aside and that of the learned trial Court dated 12.01.2017 is hereby affirmed. Resultantly, the petitioner-accused is acquitted of the charges for an offence under Section 304-A/279/427 of the IPC.

19. Further, it is directed that the petitioner-accused, who is already on bail vide order dated 01.11.2018 passed by this Court, is discharged along with bail/surety bonds etc.

20. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

31.08.2022

Poonam Negi

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*