

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

CRA-D-52-2021

Date of Decision: 04.10.2023

Gulshan Kumar

....Appellant

Versus

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Komalpreet Singh, Advocate for
Mr. Amandeep Singh Manaise, Advocate
for the appellant.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Anupinder Singh Grewal, J. (Oral)

This appeal has been preferred by the appellant/complainant against the acquittal of respondents No.2 to 4, vide judgment dated 17.02.2020 passed by the Additional Sessions Judge, Gurdaspur.

Learned counsel for the appellant/complainant submits that respondents No.2 to 4 have been erroneously acquitted although, there was cogent evidence for their conviction. It was the case of the prosecution that the complainant and his father were travelling on a motorcycle when the accused, who were on a Bolero car, allegedly hit their motorcycle which resulted in injuries to the deceased, who later succumbed to the injuries. The complainant had run away from the place of occurrence to save his own life and later he lodged the FIR.

In the post-mortem examination, the following injuries were found on the person of the deceased:-

- “1. A brownish abrasion of the size 12 x 7 cm was present on the lateral aspect of Arm and shoulder of left side.*
- 2. Five linear abrasions brownish in colour of the size 5 x 0.3 cm, 4 x 0.3 cm, 4 x 0.3, 3.5 x 0.3 cm and 3 x 0.3 cm were present on the right side of abdominal wall on right Hypochondrium and Umbilical region. They are irregularly placed.*
- 3. There was fracture of C1 and C2 vertebral bodies with fracture of spinous process. Fracture fragments were impinging upon the cervical spinal cord leading to laceration and haematoma formation in upper cervical spinal cord.*
- 4. Liver- there was laceration of liver on its superior and posterior surface with haematoma formation around it.*
- 5. Spleen- there is a laceration of the lateral surface of the spleen. This laceration was extending into the cortex of the spleen with haematoma formation around it.”*

We have heard the learned counsel for the appellant and have carefully perused the record and are of the considered view that the prosecution case has not been established against the respondents No.2 to 4.

The incident is stated to have been witnessed by two other witnesses i.e. PW1 – Dharam Pal and PW2 – Parshotam Lal besides the

complainant. PW1 and PW2 did not support the prosecution case and stated that no occurrence had taken place in their presence and they do not know the accused present in the Court. PW3 Dr. Ajay Mahajan stated that on 20.06.2015 post-mortem examination was conducted by the Board of Doctors of which he was a member and body was identified by Rajinder and Surinder Pal. He further stated that cause of death was due to injury on vital organ i.e. cervical spinal cord leading to neurogenic shock and hemorrhagic shock due to injuries to liver and spleen collectively. He however, stated in his cross-examination that the injuries on the body of the deceased could be result of fall on the ground.

It is significant to note that the presence of the complainant at the place of occurrence is doubtful. The complainant in his cross-examination stated that at about 03:45 a.m., he was present near Friends Furniture House Mugrala Road Dinanagar, which is at a distance of 5 kilometers from the place of occurrence. His location at that place has also established from his call details. The call details indicate that the deceased and the complainant were not at the same place at the time of the incident or in close proximity thereof. He had also stated that just prior to the incident the deceased slowed down the motorcycle and he had got down from the same and after the accident, he had run away from the spot to save his own skin. It is also the case of the prosecution that after the complainant had runaway from the spot, the deceased had made a telephonic call to him and inquired about his well being. This conduct of the complainant appears to be

improbable inasmuch as he would not have run away from the spot when his father had fallen down after the accident and injuries were being inflicted by accused.

Furthermore, it is also the case of the prosecution that the motive for the incident is that the occupants of the Bolero car were running a liquor vend and they suspected that the deceased was selling illicit liquor which was affecting their business but no material had been brought on the record to indicate that the accused were running liquor vends although, it has come in cross-examination of PW4 – Gulshan Kumar that he and his family members were involved in several cases under the Excise Act.

Consequently, we find no merit in this appeal and the same stands dismissed.

Pending application(s), if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

04.10.2023

Varinder Prashad

(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No