

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR No.2688 of 2014 (O&M)
DATE OF DECISION: 17th JULY, 2023

Pardeep Dutta

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Vikas Singh, Advocate,
for the petitioner.

Mr. Gurpreet Singh Sandhu, DAG, Punjab with
ASI Gurmeet Singh.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present petition has been filed by the petitioner for quashing of order dated 06.08.2014 (Annexure P-1) passed by the Sessions Judge, Patiala (for short, 'lower Appellate Court'), vide which, the second application filed by the petitioner under Section 391 read with Section 311 of Cr.P.C. for adducing additional evidence has been dismissed, with certain other prayers made in the present petition.

2. The petitioner is alleged to have caused an accident with his vehicle bearing No.DL-2CR-0845 while travelling from Ambala side. One person is alleged to have died in the said accident. An FIR No.122 dated 14.05.2006 under Sections 279 and 304-A of IPC was registered at

Police Station City Rajpura against the petitioner. In the trial before the trial Court, the prosecution had produced the eye witness to the accident, as well as, the Investigating Officer of the case; and had proved the factum of accident having been caused by the vehicle of the petitioner. He was found to be travelling on the said place and time as mentioned in the FIR and caused the accident.

3. Appreciating the material on record, the trial Court had convicted the petitioner under Sections 279 and 304-A IPC and sentenced him with imprisonment for maximum of one and half year; along with some lesser punishment. Challenging the said judgment of conviction and order of sentence, the petitioner has filed an appeal before the Sessions Judge, Patiala. In the said appeal, the petitioner had moved an application under Section 391 read with Section 311 of Cr.P.C. for leading additional evidence. The said application has been dismissed by the lower Appellate Court. Hence, the present petition has been filed.

4. Arguing the case, learned counsel for the petitioner has submitted that the petitioner wants to controvert the version of the prosecution qua he ever having travelled on the said road, on the said date and time. For the said purpose, the petitioner has got from Delhi office of the toll plaza the details of the vehicles which had passed through the Shambhu Toll Plaza situated on the said road; on 14.05.2006. In the said details, the registration number of the vehicle of the petitioner is not mentioned in the said list. Hence, if the petitioner is permitted to lead this document in evidence, then the story of the prosecution gets demolished. Hence, leading in evidence the said document will help the Court in arriving at the just decision of the case. Hence, permitting

additional evidence is necessary. Therefore, the lower Appellate Court should have permitted the petitioner to lead the additional evidence. Learned counsel for the petitioner has further submitted that there is another document in the form of a letter dated 28.11.2013 issued by the Ambala office of the said toll plaza; writing therein that they do not have the record of the vehicles passing through at the toll plaza at their Ambala office. Hence, it is submitted that since the testimony of the Investigating Officer is based upon the fact that he had seen the record of vehicle of the petitioner at the Ambala office of the toll plaza and the said office of the toll plaza has given in writing that they do not have the record of the vehicles at the Ambala office of toll plaza, therefore, his testimony is nothing but fabrication. Permitting this document to be led in additional evidence is also necessary. Hence, the present petition deserves to be allowed and order passed by the lower Appellate Court be set aside.

5. On the other hand, learned State counsel, on instructions from ASI Gurmeet Singh, has submitted that the trial of the case is already over. The relevant material was already proved before the trial Court to prove the charge against the petitioner beyond reasonable doubt. It is further submitted by learned State counsel that the documents, otherwise also, are irrelevant for the reason that the accident was witnessed by an eye witness, who has been examined as PW-3 in the case to prove the fact of accident. Moreover, the documents, sought to be produced by the petitioner; are inconsistent and not relating to the aspect of the matter directly. The documents are surrounded by the unexplained and uncertain circumstances. Therefore, the lower Appellate Court has

rightly rejected the prayer of the petitioner. Moreover, since there is sufficient material available on the record, therefore, the lower Appellate Court does not require any other document to assess the charge against the petitioner; any further. Learned State counsel has further submitted that the petitioner had every opportunity to lead any document or evidence in defence evidence when his evidence was going on during trial. At this time, the petitioner cannot be permitted to lead in evidence the documents which were created after more than seven years of the date of occurrence.

6. Having heard learned counsel for the parties and having perused the case file, this Court does not find any force in the arguments raised by the counsel for the petitioner. The assertion of learned counsel for the petitioner, in nutshell, is that since the toll plaza record available in the Delhi Head Office of the toll plaza company shows that his vehicle had not passed through the toll plaza, therefore, the document would prove the innocence of the petitioner, hence it is necessary for proper decision of the case. However, in the considered opinion of this Court, that document, even if taken to be correct, cannot be of any help to the case of the petitioner. It is not the case of the prosecution that the accident had happened in near vicinity of the toll plaza. Rather the accident has taken place about 10 KM away from the toll plaza. Therefore, whether his vehicle passed through the said toll plaza or not is not even a fact directly relating to the factum of the accident having taken place. Otherwise also, it is common knowledge that every toll plaza has some special lane where they do not charge the fee for various categories or for different reasons. Therefore, it is not essential that all the vehicles

which had passed through the said toll plaza are recorded in the CCTV footage or in the tax collection record of the said toll plaza. Hence, this document would not be of any particular assistance to the Court below for arriving at any decision as such.

7. Another argument of learned counsel for the petitioner that the Investigating Officer of the case has asserted that he had seen the record of the toll plaza and in the record at Ambala office of Toll Plaza, the entry of the vehicle of the petitioner was seen; but now that office of toll plaza company has given in writing that they do not have the record at the said place is, also liable to be noted only to be rejected. Needless to say that the Investigating Officer of the case claims to have seen the record at the Ambala office of the toll plaza within six months of the accident in question. Whereas, the letter sought to be relied upon by learned counsel for the petitioner is issued by the said office after more than seven years. Therefore, it cannot be ruled out that the record of the said toll plaza was shifted from or through the Ambala office to Delhi office. The said record may be available at the Ambala office at relevant time, being the record of vehicle qua which no toll tax was collected, which the toll plaza company may have destroyed subsequently, being not of any use for them.

8. Otherwise also, the additional evidence is not to be permitted to an accused on his mere asking. The Court has to see whether the document is really necessary in disbursal of justice in the criminal case. As mentioned above, the documents are not of any assistance for the Court to arrive at any conclusion; and both these documents are surrounded by the indeterminate circumstances; which cannot now be

ascertained by any material or evidence; by any means. A document created after seven years of the accident, the origin of which is not based upon determinable facts; itself, cannot be permitted to be led in additional evidence.

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

10. However, it is clarified that any observations made in this order shall not affect the rights of the petitioner during the arguments of the appeal.

11. The pending miscellaneous applications, if any, are also disposed of; as such.

17th JULY, 2023
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes