

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

117

CRR-31-2024 (O&M)
Date of Decision: 10.01.2024

GURVINDER SINGH ALIAS BABBU

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr.Achin Gupta, Advocate and
Mr. Karan Bansal, Advocate
For the petitioner.

SANDEEP MOUDGIL, J

1. By filing the present revision under Section 401 Cr.P.C. the petitioner has assailed the judgment of conviction dated 11.04.2018, passed by the Sub Divisional Judicial Magistrate, Patti, which is affirmed by Additional Sessions Judge, Tran Taran vide judgement dated 3.11.2023 wherein the accused/Petitioner has been convicted under section 304-A ,279 and 427 IPC,1860. However in appeal before Ld. Sessions Court conviction under section 427of the IPC,1860 has been set aside.
2. Factual matrix leading to the filing of present petition folds as under:.that the present case has been registered against accused on the statement of complainant Balbir Singh to the effect that he is resident of village Bhagupur and he is running shop of Feed near patrol pump in village Bhagupur in the name of Deol Enterprises and on 21.2.2015 and his nephew Gurdarshan Singh son of Jagir Singh, resident of village Bhagupur has come to his shop to meet

him and after finishing their talk they were going to his house on motor cycles and Gurdarshan Singh was going on his motor cycle bearing no.PB38-B-3009 and he was following him on his motor cycle and when he reached near patrol pump of village Bhagupur, one Scorpio Car came from his back side in rash and negligent manner and at high speed and driver of said Scorpio Car hit his Car against Motor cycle of his nephew Gurdarshan Singh due to which he fell on the ground and suffered serious injuries and his motor cycle was also badly damaged and registration number of Scorpio Car was PB-30-AF-3385 and name of the driver came to know as Gurwinder Singh son of Gurjant Singh, resident of village Sher Singh wala, District Faridkot and he arranged vehicle and admitted his nephew Gurwinder Singh in civil hospital Patti where doctor declared him dead and he was going to lodge complaint against accused but police party met him near village Bhagupur and his statement was recorded and he further stated that accident has been caused by the accused Gurwinder Singh by driving his Scorpio Car bearing No.PB-30-AF-3385 in rash and negligent manner without blowing Horn due to which his nephew Gurdarshan Singh had died. Legal action be taken against accused. On the basis of his statement, ruqa was sent to police station for registration of FIR against the accused and present FIR under Sections 304- A, 279 and 427 of IPC has been registered against the accused.

3. It is contended by learned counsel for the petitioner that the judgment passed by the trial Court suffers from grave illegality, perversity and the same is based upon surmises and conjectures and as such the same is liable to be set aside.

4. He further contends that the impugned judgment passed by Ld. Appellate Court to the extent whereby the petitioner has not been acquitted under sections 279 and 304-A IPC also, is a result of mis-reading and misinterpretation of the evidence. Both the Id. Courts below have wrongly relied upon the evidence led by the prosecution and has wrongly discarded the version of the petitioner. That both the Ld. Courts below had failed to appreciate the material fact that no statement of independent witness was recorded despite when the alleged incident happened at a place where there is a petrol pump and many shops. It clearly shows that though independent witnesses were available, the prosecution has failed to examine them and as such, an adverse inference is required to be drawn against the prosecution for non-joining of any independent witness despite availability.
5. That both the Ld. Courts below had further failed to appreciate the material fact that the Sherbhadur Singh (DW1) specifically deposed that petitioner was not the owner of Scorpio car (alleged offending vehicle) bearing no. PB-30-AF-3385 nor he was the driver of that vehicle. He further deposed that on 21.05.2015 the petitioner was with him and they both attended a function in village Kutabpura from 11 am to 5:30 pm. On the next day, i.e. on 22.05.2015 the petitioner was going to Baba Budha Sahib where a quarrel with investigation officer of the present case ASI Manpreet Singh took place and because of that reason the petitioner was falsely implicated in the present false FIR by him. The La. Courts below failed to appreciate the insurance of the alleged offending

vehicle (EX. PW3/D) which reflects that the petitioner is not the insured person of the said vehicle which clearly supports the deposition made by the Sherbhadur Singh (DW1).

6. Heard.
7. I have perused the impugned judgment carefully and have also gone meticulously through the findings recorded by the trial Court.
8. The main strength of the argument of the petitioner is the plea of alibi that he was not present at the spot of occurrence and this very stand of the petitioner stands rebutted by the prosecution when the cross examination of the PW1 Complainant who witness is an eye to the accident, was conducted in which he categorically deposed that accused was driving the alleged vehicle and has caused the accident on 21.02.2015. Secondly the stand taken by the petitioner that he has been falsely implicated in the present at the behest of investigating officer as the I.O had some pre-existing grudge against the accused also does not hold good for him as had something of this sort been there it is legitimately expected that I.O would have been cross examined on that very aspect and in astonishingly no suggestion to that effect was ever put to the PW8 in his cross examination. And moreover accused had not placed on record any evidence in form of video or photograph regarding his plea that he was attending a function at kutabpura.
9. Another contention that needs to be addressed raised by the counsel for the petitioner is that there are discrepancies recorded in the statement of the complainant and the PW8. In this regard this court would opine that human memory is fallible and thus it natural to get recorded minor discrepancies however the point that

needs to be considered is the discrepancy recorded should not be fatal to the case of the prosecution.

10. On perusal of the judgment passed by the trial Court dated 11.04.2018, this Court is of the considered view that the said judgment well reasoned and is based upon proper appreciation of evidence led by the parties. The ground of conviction, as has been culled out by the trial Court, cannot be said to be faulty, contrary to law or requiring any interference by this Court.
11. Accordingly, the revision petition stands declined.
12. Dismissed.
13. All the miscellaneous pending applications, if any shall disposed off, accordingly.

10.01.2024
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable :Yes/No