



105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1620-SB-2003
Date of Decision:10.05.2024

Mukesh Kumar ...Appellant
vs.
State of Haryana ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Satnam Singh Sishodia, Advocate for
Mr. S.K.Verma, Advocate
for the appellant.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

N.S.Shekhawat J. (Oral)

1. Feeling dissatisfied with the impugned judgment of conviction and order of sentence dated 10.07.2003 passed by the Court of Additional Sessions Judge, Ambala, whereby the appellant was convicted for the offences punishable under Sections 279, 337, 323 of IPC and was sentenced to undergo rigorous imprisonment for a period of 01 year for an offence punishable under Section 323 IPC and to pay a fine of Rs.500/-, along with default stipulation and was sentenced to undergo RI for a period of 06 months for an offences punishable under Sections 279 and 337 of IPC and to pay a fine of Rs.500/- each, along with default stipulation, whereby the appellant has preferred the present appeal before this Court.

2. As per case of the prosecution, as set up in the report under Section 173 Cr.P.C., on 17.10.2001, Rameshwar Das, HC received an information at the Police Post, Patwi that one tempo Tata 407 loaded with milk bearing



registration No.HR 01GA-0503 and a truck bearing registration No. HR 58-6538 had met with an accident. On getting the information regarding the accident and suffering of injuries by the driver of the tempo, a police team was sent to chase the truck on a govt. motorcycle. Rameshwar Das HC alongwith other police officials proceeded to the place of occurrence and the statement of Lakhwinder Singh S/o Sh. Raghubir, complainant/injured was recorded by the police. As per the complainant, he used to collect the milk from various villages and delivered the same at milk plant Naraingarh and had kept one Tata 407 vehicle for the said purpose. At about 11.00 am on 17.10.2001, he was going on his four wheeler to Naraingarh after collecting milk from village Jatwar and when he crossed the Police Post, Patwi, a truck bearing No. HR 58-6538 driven by Mukesh Kumar, accused was going ahead of him at a very high speed. Since, it was driven rashly and at a very high speed, the accused suddenly applied the breaks of the truck without any indication and signal in this regard and the truck was stopped in the middle of the road. Even there were no back lights of the truck and the complainant could not apply the breaks suddenly to his Tata 407 vehicle as it was already loaded with milk. Due to this, the front side of Tata 407 vehicle was badly damaged and the complainant had sustained injuries in the accident. The complainant alleged that the accident had taken place on account of negligent and rash driving by truck driver namely, Mukesh accused as he had applied the breaks all of a sudden without any signal or indication to that effect. On the statement made by Lakhwinder Singh, the FIR in the present case was registered and the investigation formally commenced.



3. After the completion of the investigation, a challan under Section 173 Cr.P.C. was presented before the Court of Area Magistrate and it was committed for trial to the Court of Sessions, Ambala. Ultimately, charge was framed against the appellant under Sections 307, 337, 279 of IPC, to which he pleaded not guilty and claimed trial.

4. After the framing of charge, the prosecution was called upon to lead evidence and 16 witnesses were examined by the prosecution.

5. Dr. Mohinder Singh, Medical Officer, P.H.C. Sheahlang, Narnaul was examined as PW-1, who had examined the injured in the present case and proved on record the MLR (Exhibit PA). Lakhwinder Singh, complainant/ injured was examined as PW-3 and he had reiterated the version of the prosecution, as mentioned in the FIR. Even his cross-examination conducted by the defence counsel, he reiterated the fact regarding causing of the accident by the offending vehicle, driven by the accused. Still further, the prosecution examined constable Subhash Chander as PW-4, who had mechanically examined the offending truck and proved the reports Ex.PH and Ex.PJ. Similarly, Tilak Raj, photographer was examined as PW-5, who had proved the photographs Ex.P1 to Ex.P-4 and negatives Ex.P5 to Ex.P8. Arvind Kumar Dubey appeared as PW-6, who was the owner of the truck and stated that on 17.10.2001, Mukesh Kumar, accused was working as driver on the aforementioned truck. He further testified that on 17.10.2001, Mukesh had telephonically informed him that the truck had met with an accident near Police Post, Patwi. Similarly, Dr. Sandeep Jain, Medical Officer appeared as PW-8, who had medico legally examined Lakhwinder Singh, PW-3 and found two injuries on his person as per the MLR (Ex.PM). PW-11 Constable Nafe Singh,



who was deputed by PW-16 as HC Rameshwar Das to chase the truck and he alongwith PW-13 Contable Satnarain had chased the truck on their official motorcycle. They reached near village Baragarh and tried to stop the truck. However, the truck driver tried to hit him and Satnarain with his truck and they managed to stop the truck near fountain chowk, Naraingarh by placing the motorcycle in front of the truck. Ravinder Kumar, SI appeared as PW-15 had investigated the present case and had arrested the accused in the present case. Even he made various recoveries from the spot. HC Rameshwar Das, who had initiated the entire process of investigation was examined as PW-16 and had supported the case of the prosecution.

6. After completion of the investigation in the present case, the statement of the accused was recorded under Section 313 Cr.P.C. and he stated that he had been falsely involved in the present case and had not committed the offence. He further stated that the officials of Police Post, Patwi used to take fruits and vegetables from the trucks coming from Himachal Pradesh to Ambala and the truck union of Himachal Pradesh had raised a protest in front of Police Post, Patwi and the procession was led by the accused. In order to pressurize the truck union, he was falsely involved in the present case by the prosecution.

7. After conclusion of the trial, the trial Court held that the case under Section 323 IPC was made out and the appellant was ordered to be acquitted of the charge under Section 307 IPC. Apart from that, the present appellant/accused was also convicted under Sections 279, 337 IPC in the present case.

8. Learned counsel for the appellant vehemently argued that the entire approach of the trial Court in determining the material questions of law and fact



arising out of the present case, is wrong. Even no one had witnessed the occurrence in the present case and the prosecution had planted PW-3 Lakhwinder Singh and PW-6 Ravinder Singh to falsely involve the present appellant due to the fact that he had led a procession against the local police. Learned counsel further contends that in the present case, it was the apparent that the entire prosecution case was based primarily on the testimonies of official witnesses and the impugned judgment is legally unsustainable.

9. On the other hand, learned State counsel submitted that the prosecution had led sufficient evidence to prove the involvement of the present appellant under Sections 279, 337, 323 IPC. Learned State counsel further submits that in fact, the appellant was not only rash and negligent in driving the truck, but had also caused injuries to a witness, who was chasing his truck. Thus, the impugned judgment and order are liable to be upheld by this Court.

10. I have heard learned counsel for the parties and have gone through the trial Court record with their able assistance.

11. In the present case, the prosecution case primarily rests on the testimony of PW-3 Lakhwinder Singh, who had reiterated the version of the prosecution, as mentioned in the FIR. Even he was subjected to cross-examination by the defence counsel, however, he again confirmed the fact that on the date of accident, the present appellant was driving the truck and the accident had happened on account of rash and negligent driving of the offending vehicle by the present appellant. In fact, the appellant had applied the breaks to take the tea from the tea shop and stopped the truck in the middle of the road. Even due to the said wrong act on the part of the appellant, the tempo Tata 407 driven by the complainant had hit the truck from backside and the



extensive damage was suffered by the tempo and the complainant was seriously injured in the present incident. Apart from that, his testimony is duly corroborated by the statement of PW-6 Arvind Kumar Dubey, who was the owner of the offending truck and as per him on 17.10.2001, the present appellant was driver of the truck and he had telephonically informed PW-6 Arvind Kumar Dubey that the truck had met with an accident near Police Post, Patwi. Even though, PW-6 tried to help the accused in cross-examination by simply stating that he had employed two drivers on the truck, yet the said testimonies of no help to the present appellant as sufficient evidence was already collected during the course of investigation, which clearly established the fact that the appellant was driving the truck on the date of accident. Still further, the prosecution had examined 16 witnesses in all and all the witnesses were cross-examined at length by the learned defence counsel. However, no material information could be illicited from their testimonies and all the witnesses of the prosecution, which stood the test of cross-examination. Thus, the trial Court had correctly placed reliance on various testimonies of the prosecution witnesses.

12. Apart from that, no doubt, the majority of witnesses in the present case were official witnesses, however, their testimonies could not have been thrown only on the ground of their official status. The Hon'ble Supreme Court and this Court have held the in number of judgments that in case the testimony of an official witness inspires confidence, the same can be relied upon by the Courts to fix the culpability of the accused and the judgment could be based on the same. However, in the present case, all the official witnesses had consistently deposed the facts, which unerringly pointed towards the guilt of the



present appellant. Even otherwise, I have perused the impugned judgment of conviction passed by the trial Court and I did not find any material irregularity, illegality or perversity in the impugned judgment passed by the trial Court. Thus, the conviction of the appellant under Sections 279, 337, 323 IPC is ordered to be maintainable and the impugned judgment of conviction is upheld.

13. Now reverting to the order regarding quantum of sentence, it is observed that as per custody certificate produced by the learned State counsel, the appellant had already undergone 22 days of actual sentence and no criminal case was ever registered against him. The appellant was aged about 25 years, at the time of registration of the FIR i.e. October, 2001. He was arrested in the present case on 20.10.2001 and remained in custody for sometime. Even otherwise, in the present case, the complainant has already been discharged long ago and had suffered only minor injuries, for which the appellant was convicted for the offence under Section 323 IPC. Still further, the appellant is facing prosecution for the last about 23 years and no purpose will be achieved by sending him again to jail, after such a long period. Even otherwise, he was aged 25 years at the time of the occurrence i.e. on 17.10.2001 and must be aged about 49 years by now. Thus taking a lenient view of the matter, the sentence imposed on the present appellant is reduced to the period already undergone by him.

14. In view of the above, the appeal is partly allowed and the impugned judgment of conviction is upheld and order of sentence is modified to the extent that the sentence imposed on the present appellant is reduced to the period already undergone by him and the order of sentence is modified to that extent. Amount of fine will remain the same.



- 15. With these directions, the appeal stands disposed off.
- 16. All pending applications, if any, are also disposed off, accordingly.
- 17. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeal, in accordance with law.
- 18. The trial court record be sent back.

10.05.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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