

2024:PHHC:142661



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

**CRR-1718-2015
DECIDED ON: 08.07.2024**

STATE OF HARYANA

.....PETITIONER

VERSUS

GURMEJ SINGH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Pannu, Addl. AG, Haryana.

SANDEEP MOUDGIL, J

1. The present criminal revision petition has been preferred against the judgment dated 20.11.2014 passed by Additional Sessions Judge, Kurukshetra whereby, the accused-Gurmej Singh stands acquitted for commission of offence under Section 304-A IPC.
2. The brief facts of the present case is that on 3.9.2010, ASI Amir Singh received a telephonic message from Police Post IIIrd gate at Police Station Ismailabad to the effect that Darshan Singh son of Ranbir Singh, Kulwant Singh son of Shamsher, Khushi Ram son of Sahab were hospitalized due to electrocution near village Thaska Miranji, whereas Gurdeep Sirgh son of Jaggan Nath, resident of Madduda had died on that count. At this, ASI Amir Singh alongwith other police personnel reached Police Post IIIrd gate and obtained ruqa and MLR and thereafter, went to LNJP Hospital, Kurukshetra. On 3.9.2010, all the persons who were hospitalized were declared unfit for statement and no eye witness of the occurrence was available there and as such, ASI Amir Singh again went to LNJP Hospital,

Kurukshetra on 4.9.2010 and after obtaining the opinion of the medical officer as to fitness of injured to make a statement, Darshan Singh son of Ranbir Singh's statement Ex.PD was recorded to the effect that he was labourer by profession. On 3.9.2010, he alongwith Kulwant Singh son of Shamsheer Singh, Gurdeep Singh son of Jagan Nath, Khushi Ram son of Sahab Singh, Buta Singh son of Khillu Ram and Mohammad Safi had taken a contract from contractor Gurmej Singh son of Santa Singh for erecting electric poles for installing transformers @2500/- per transformer. On 3.9.2010, at about 1.15 p.m., they were six persons in all and were erecting electric poles in the fields of Chhabeg Singh son of Mansa Singh, resident of Thaska Miranji. At that time, it was drizzling and there was mud on the ground Gurdeep Singh son of Jagan Nath was holding a rope, another end. whereof was tied with the pole. The remaining five persons were holding the electric pole which was put in a pit. At a distance of three feet, H.T. Electricity Line was passing. Contractor Gurmej Singh had not obtained permit for disconnecting the electric supply from the Electricity Department nor he took any steps to get the electricity disconnected at that time and he made the complainant and his companions to commence the work of erecting pole. During this process, the electric pole which was sought to be erected at the site got accidentally freed and same came into contact with the H.T. Line. Resultantly, there was electric current in the earth and all of them came to be electrocuted. Gurdeep Singh got seriously injured due to electric shock. The persons present nearby took them to Ismailabad in a private vehicle and from Ismailabad, they were taken to government hospital, where Gurdeep Singh was declared "brought dead". Thus, it was alleged that contractor Gurmej Singh without obtaining permit for disconnecting the electric supply, made them to

commence the work of erecting pole and in this manner, he committed a rash and negligent act.

3. On the afore-said allegations, formal FIR No.105, dated 04.09.2010, under Sections 337, 304-A IPC stands registered at Police Station Ismailabad, District Kurukshetra.

4. On completion of investigation, challan under Section 173 Cr.P.C. stands presented against the accused.

5. On finding a *prima-facie* case against the accused, vide order dated 11.05.2011, charges were framed against the accused, to which he pleaded not guilty and claimed trial.

6. To prove its case, prosecution examined as many as nine witnesses.

7. Statement of the accused under Section 313 Cr.P.C. was recorded wherein, he pleaded false implication and claimed innocence. Thereafter, opportunity was granted to accused to lead evidence in defence but no evidence was led.

8. After hearing contentions of learned counsel for the parties and perusing the evidence led on the file, Appellate Court has acquitted the accused of the charges framed against him by giving him benefit of doubt. Hence, the present criminal revision petition.

9. It has been contended by learned State counsel that prosecution witness PW-9/Mohammad Safi has proven the prosecution's case regarding the contract taken by Gurmej Singh and labour working. It has been proved on record by PW-1 that on the alleged date no permit was taken for disconnecting the power supply, which indicates the negligence by the contractor. The Appellate Court has not taken into consideration the entire testimony of the hostile witness, which cannot be

dismissed simply because the prosecution was able to sustain their case during cross-examination. The statement of PW3 Darshan Singh and PW9 Muhammad Safi, who claimed that they had worked in Chhabeg Singh's fields on 03-09-2010 to erect an electric pole and that Gurdeep Singh had died from electrocution after the pole slipped out of their hands and touched the nearby electric wire crossing, was not taken seriously by the Appellate Court. A letter dated 10-08-2009 that is on the lower court's file, along with photocopies of the indemnity bonds purportedly "executed by accused Gurmej Singh," were also recovered by the police via memo Ex.PM, but the Appellate Court did not appreciate this. According to these documents, the contract for installing individual transformers on each and every tubewell connection which was awarded to M/s Capital Power Infrastructure Pvt. Ltd. Noida (UP) on the same terms and conditions came to be awarded to Gurmej Singh by the afore-said company. PW-4 SDO Jagtar Singh claimed that Lakhi Ram JE had informed him that a worker had been electrocuted to death while doing work at the site. Additionally, he testified that in order to guarantee the safety and security of the workers on the job site, the supervisor and the aforementioned organisation should have acquired the permit prior to starting the operation.

10. It is submitted on behalf of the petitioner that the Appellate Court has not appreciate the statement of PW-5 Lakhi Ram, who deposed that M/s Capital Power Infrastructure Pvt. Ltd. Had obtained the contract for erecting transformers on the tubewells and said company had engaged sub contractors, who engaged the labourers and he was incharge of area of Thaska Miranji. He came to know about the death of a labourer due to electrocution and the contractor concerned had not obtained the permit for disconnection of electric supply from him.

11. Heard learned counsel for the petitioner.

12. From the perusal of file, it reveals that the prosecution relies on statements from Darshan Singh (PW3) and Mohammad Safi (PW9), who testified about working in Chhabeg Singh's fields on September 3, 2010, to erect an electric pole. They stated that Gurdeep Singh died due to electrocution when the pole slipped and touched nearby power lines. Nevertheless, no witness has reported that the accident happened while the accused was there, and there is no proof that the labourers were directly supervised or controlled by the accused. The accused did not give them instructions to install the pole, according to the witnesses. Rather, their statements imply that Gurdeep Singh died from electrocution after the tragedy happened in Chhabeg Singh's fields. The accused's guilt or liability is not established by these testimonies. Since the presence of the accused at the scene and his direct involvement or instruction are not proven, the prosecution story is doubtful. The eyewitness testimonies failed to support the prosecution's case. Despite thorough examination they turned hostile, failing to provide any evidence against the accused. Additionally, the prosecution failed to prove the contractual involvement of the accused and direct responsibility for the worker's actions.

13. It is a well-known fact that a permit for the disconnection of the electric supply must be obtained before any such work is done. AFM, JE, and other technical personnel are responsible for obtaining this permit. Despite being a contractor, the accused was not technically skilled, hence it was not his responsibility to file for a permit to disconnect the energy supply. Someone with technical expertise was required to take the necessary action in that regard. In any event, there is proof on file showing that the accused was not present at the scene of the accident. It was someone else's responsibility to secure a permission in order to disconnect the electric supply. The available evidence in no way establishes that the

accused was chosen as a subcontractor by M/s Capital Power Infrastructure Pvt. Ltd., Noida (U.P.), to carry out the work at four feeders.

14. In view of the discussion made hereinabove, this Court is of the view that there is no illegality of perversity in the impugned judgment dated 20.11.2014 passed by Additional Sessions Judge, Kurukshetra vide which the accused stands acquitted of the charges framed against him by giving him benefit of doubt. Hence, the impugned judgment is upheld and the present criminal revision petition is dismissed.

(SANDEEP MOUDGIL)
JUDGE

08.07.2024

Sham

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>