



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

204

CWP-3534-2016 (O&M)

Date of decision: 12.11.2024

Manjit Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Onkar Singh, Advocate for the petitioner.

Mr. Aditya Sharda, DAG Punjab.

Ms. Malvika Singh, Advocate for respondent No.3
(Legal Aid Counsel).

VINOD S. BHARDWAJ, J. (Oral)

1. Challenging the judgment dated 24.11.2015 passed by the Juvenile Justice Board whereby respondent No.3 has been acquitted of the charges framed against him by the Principal Magistrate, Juvenile Justice Board, Hoshiarpur on the ground that the identity of respondent No.3, as an accused could not be established beyond the reasonable doubt, the instant writ petition has been filed.

2. Briefly summarized, the facts of the case are that the petitioner-Manjit Singh son of late Sh. Surinder Singh made a complaint to the Police and informing that on 26.03.2014, he was accompanying one Balbir Singh on a tractor bearing registration No.PB-10-AL-7410 while his father was going on his scooter, make Bajaj Chetak, bearing registration No.PB-24A-0253, towards their village. His father was ahead on his scooter and was being followed by the petitioner-complainant. When they were 1 Km. away



from the village Dhagam, a motorcycle make Splendor bearing registration No.PB-07-AJ-4307 being driven in a rash and negligent manner, stuck against the scooter of his father near the fields of one Sh. Gurnam Singh, resulting in injuries to his father. He reached at the spot and asked the name of the person driving the offending motorcycle, who disclosed his name as Lovepreet Singh son of Paramjit Singh while the pillion rider disclosed his name as Jasbir Lal (respondent No.3 herein) son of Kashminder Singh. When the petitioner-complainant was attending to his injured father, both the said persons escaped from the spot leaving behind the motorcycle. Father of the petitioner however succumbed to the injuries. The scooter was also badly damaged. An FIR No.26 dated 27.03.2014 regarding accident was also registered under Sections 304-A, 279 and 427 of IPC at Police Station Garhshankar, District Hoshiarpur.

3. During the course of investigation, the Police took the scooter alongwith the offending motorcycle in its possession. The postmortem of the petitioner's father was also got conducted as per which the cause of death was determined as head injuries sustained in the accident and that the said injuries were held to be ante mortem in nature.

4. On completion of the investigation, the charge-sheet under Section 173 Cr.P.C. was filed whereupon proceedings were initiated before the Principal Magistrate, Juvenile Justice Board, Hoshiarpur. The respondent being a juvenile faced the proceedings for offences punishable under Sections 304-A, 279 and 427 of IPC.

5. Parties led their respective evidence and on consideration



thereof, the Principal Magistrate, Juvenile Justice Board, Hoshiarpur came to a conclusion that the identification of the accused was never established and that the identification was undertaken for the first time in Court and carries no value in the eyes of law. It was also recorded that earlier, as per the statement of the petitioner-complainant-who claims to be an eye-witness to the incident, the motorcycle was being driven by co-accused Lovepreet Singh but the name has subsequently been changed in the supplementary statement recorded on 04.04.2014 introducing the private respondent as the one driving the offending motorcycle. It was also noticed that there was no disclosure about the means whereby the petitioner verified as to who was driving the vehicle and that the only eye-witness i.e. the petitioner herein had also stated that the juvenile-in-conflict with law was not known to him earlier. It was also established that the petitioner reached the place of accident after some time since he was at a distance of about 50 feet/30-40 *karams* at the time of the incident and had not seen as to who was driving the motorcycle in question. It was also noticed notwithstanding the same, the petitioner specifically got recorded the name of the driver of the offending vehicle as Lovepreet Singh, in his first version recorded in the FIR (Ex. PB/1) and that too after making an enquiry from them. Hence, a finding was recorded that prosecution failed to prove the case against the private respondent/Juvenile-in-conflict with law, beyond reasonable doubt and consequently acquitted him of the charges framed against him.

6. Aggrieved, thereof the present writ petition has been filed.

7. Learned counsel for the petitioner has vehemently argued that



the Principal Magistrate, Juvenile Justice Board, Hoshiarpur failed to appreciate the evidence that had been brought on record. He contends that the petitioner subsequently named the private-respondent/Jasbir Lal son of Kashminder Singh to be driving the offending motorcycle in his supplementary statement. Notwithstanding the aforesaid statement by the petitioner as an eye-witness, an undue benefit has been extended to the private respondent-accused. It is thus contended that the judgment suffers from non-appreciation of evidence and is liable to be set aside.

8. Since there was no representation on behalf of respondent No.3 despite service, since 15.07.2022 and awaiting appearance, Dr. Malvika Singh was appointed as the Legal Aid Counsel vide order dated 21.08.2024.

9. The Legal Aid Counsel appointed on behalf of respondent No.3 has vehemently opposed the arguments advanced by the learned counsel for the petitioner-complainant and submits that in his first version, the petitioner had specifically stated that he had stopped the person who was driving the offending vehicle and that the one driving the motorcycle disclosed his name as Lovepreet Singh son of Sh. Paramjit Singh while the pillion rider had disclosed his name as Jasbir Lal son of Sh. Kashminder Lal. She contends that the petitioner thereafter entered into a settlement/agreement with Lovepreet Singh and got a supplementary statement recorded on 04.04.2024 i.e. after 07 days of the incident wherein he introduced the name of the petitioner as the accused driving the offending motorcycle. The said statement is based upon an alleged verification and satisfaction regarding the accident and about driver of the vehicle, however, the source of such



verification has neither been disclosed nor any evidence has been led by him to establish the claim. She also refers to the cross-examination of the petitioner wherein he has specifically admitted that he was at a distance of 50 feet/30-40 *karams* from his father and no other person was present but they gathered after some time i.e. within 10-15 minutes of the occurrence. He pleaded ignorance about the persons who had assembled at the spot. It is also acknowledged by him that the motor-cycle riders were there at the time when other persons had assembled and that he was also in possession of his mobile at that time. None of the details of the persons, who assembled at the spot of the accident, was given by the petitioner-complainant. Further, it was also acknowledged by him that he visited the Police State on 27.03.2014 i.e. the next day. He later said that he might have gone to the Police Station on 28.03.2014 and stated that he was not sure whether he visited the Police Station on 29.03.2024 or not. He also could not give the details as to when he was called for getting his statement recorded. It was further accepted by him that the identification of the accused was not done earlier and done first time in Court.

10. She further submits that all the factors were noticed by the Principal Magistrate, Juvenile Justice Board, Hoshiarpur while recording a finding in favour of the private respondent-accused. The operative part of the judgment dated 24.11.2015 reads thus:

“11. The fact to be determined is that whether the prosecution was able to prove the identity of the juvenile-in-conflict-with-law with the occurrence in question. There is



statement of complainant Manjit Singh, who in relation is son of deceased Surinder Pal Singh. He while deposing in the Court, in his examination-in-chief, has reiterated the entire prosecution version. He proved on record his statement Ex. PA and supplementary statement as Ex. PB which he had got recorded with the police, but his cross-examination is relevant to be discussed here. In his cross-examination, he stated that at the time of alleged accident, he was at a distance of 50 Feet 30/40 Karams from his father on the fateful day and at that time no other person was present. He further stated that the people gathered there within 10/15 minutes. These persons were doing work in the nearby fields. He further deposed that the motorcycle riders were there. He further deposed that he cannot tell the exact time when the police came at the spot. He visited the police station on 27.03.2014 in the morning. He Further stated that he might have gone to the police station on 28.03.2014 and lastly went to the police station for recording the statement when he was called, but, he cannot tell the exact date. He has specifically stated that no identification parade was done by the police from him.

12. *The cross-examination of the Investigating Officer Examiner PW 2 is also very relevant wherein he has stated that during his investigation Lovepreet Singh son of Paramjit Singh was found guilty for committing the accident*



in question.

13. *Moreover, the name of the juvenile has not been mentioned in the FIR. The identification parade for establishing the identity of the juvenile was not conducted in the present case. The so-called eye witness namely PW1 Manjit Singh has for the first time identified the juvenile in the Court and such identification has no value in the eyes of the law. Thus, in my opinion the basic requirement that at the time of alleged accident, the motorcycle in question was being driven by the juvenile has not been established by the prosecution. The Reliance can be placed on the judgment passed by the Hon'ble Supreme Court in a case titled as Kanan and Ors. Versus State of Kerla, AIR 1979 (S.C.) 1127, in which it has been held that where a witness identifies an accused who is not known to him in the Court for the first time, his evidence is absolutely valueless unless there has been a previous identification parade to test his powers of observations. The idea of holding the test identification parade under Section 9 is to test the veracity of the witness on the question of capability to identify an unknown person whom the witness may have seen only once. If, no test identification parade is held, then, it will be wholly unsafe to rely on his bare testimony regarding the identification of an Juvenile-in-conflict-with-law for the first time in the Court.*



14. *Thus, from the above authority, it becomes very much clear that the identification for the first time in the Court has no value. In the present case the only alleged eye witness/complainant PW1 Manjit Singh has stated that the juvenile-in-conflict-with-law was not known to him earlier and from his statement it is also crystal clear that he had reached at the place of accident after some time of the accident and they had not seen who was driving the motorcycle in question i.e. why the complainant got recorded the name of driver of the offending vehicle as Lovepreet Singh firstly at the time of recording his statement with the police. So, the prosecution has failed to prove one of the vital ingredients of the offence and prosecution has failed to establish the identity of the juvenile-in-conflict-with-law.*

15. *The other evidence which is led by the prosecution is found to be just supporting evidence and that supporting evidence is only helpful to the prosecution to prove the charge when the prosecution is able to establish the identity of the juvenile-in-conflict-with-law. When the prosecution case is lacking in that aspect, then the prosecution has failed to prove the case against the juvenile-in-conflict-with-law beyond reasonable doubt.*

16. *So, in these circumstances Juvenile-in-conflict-with- Law Jasbir Lal stands acquitted of the charges framed*



against him. Case property if any be disposed of as per rules, after the decision of appeal or revision if any. File be consigned to the Judicial Record-room, Hoshiarpur, after its completion.”

11. It is thus argued that the findings recorded by the Principal Magistrate, Juvenile Justice Board, Hoshiarpur cannot be said to be erroneous or illegal or based upon non-appreciation of evidence. She further submits that once the view taken by the Principal Magistrate, Juvenile Justice Board, Hoshiarpur is of a probable view, on the basis of evidence adduced before the Court, such a finding of acquittal would not ordinarily be converted to the prejudice of the private respondent merely because some other view is also probable.

12. No other argument has been raised by the learned counsel for the respective parties.

13. I have heard the learned counsel for the respective parties and have gone through the documents appended with the present writ petition.

14. It is evident from the above that the accident in question took place on 26.03.2014 at around 6.50 p.m. and information sent to the Police Station on 27.03.2014. In the first version, the petitioner-complainant specifically named the person driving the offending vehicle as Lovepreet son of Paramjit Singh caste Adharmi resident of village Dagam and the person sitting on the pillion disclosed his name as Jasbir Lal son of Kashminder Singh caste Adharmi resident of Dagam. Thereafter, there has been a shift from the allegations leveled by the petitioner and a supplementary statement



was got recorded on 04.04.2014 and the name of the private respondent-Jasbir Lal, instead of Lovepreet Singh was substituted. The petitioner simply stated that he had verified the details regarding the accident and was satisfied that Jasbir Lal son of Kashminder Singh was actually driving the vehicle and Lovepreet Singh son of Paramjit Singh was sitting on the back side. No source of such verification or authentication has been disclosed by the petitioner as to how and under what circumstances did he arrive at the said conclusion. Further, as per the plea of the petitioner-complainant, the people from the nearby fields had gathered in a short time span of 10-15 minutes and the accused-Jasbir Lal as well as Lovepreet Singh were also present at that time when all those people had gathered. It seems improbable that in the presence of such a large number of people at the spot, how the suspect could have escaped. It is also highly improbable that none of the persons working in the adjoining fields would be knowing the suspects or even the petitioner more so when the that accused as well as the petitioner belong to the neighboring villages. None of the said persons joined in the investigation or supported the version of the petitioner.

15. It is also evident that the petitioner disputed the identity of the person, who was originally reported by him to be driving the vehicle, and has thereafter been substituted with respondent No.3 apparently on the basis of some *Panchayatnama*/settlement. The said *Panchayatnama* is signed by Jaswinder Singh s/o Ram Chand, Satpal s/o Garib Dass, Joginder Pal, Raj Pal s/o Shankar Dass, Prakash, Paramjit Ram, Kashminder Lal (father of Lovepreet Singh), Surinder Singh and Didar Singh, but none of the said



persons stepped into the witness box in support of the case of the prosecution. Kashminder Singh- one of the signatory did appear as a defence witness-RW1 and stated that he had seen the attested copy of the *Panchayatnama* and while he identified his signatures on the same but stated that the contents of the same were not informed to him. He denied involvement of his son-Jasbir Lal in the incident/accident or that he was driving the vehicle. The burden thus lay on the prosecution to establish its case including the genuineness of the Panchayatnama/settlement pertaining to the identification of the person actually driving the offending vehicle. The case of the prosecution was based solely on the supplementary statement of the petitioner (herein). The surrounding circumstances leading to the substitution of name of the private respondent as an accused against the initially named suspect-accused Lovepreet Singh, has not been explained to the satisfaction of judicial conscience or to be held as a satisfactory discharge of burden of proof.

16. Hence, I am of the considered opinion that the judgment passed by the Principal Magistrate, Juvenile Justice Board, Hoshiarpur cannot be said to be perverse or based upon mis-appreciation/misreading of the evidence adduced before the Court. The High Court, while sitting in review against the judgment(s) passed by the trial Court does not substitute its opinion for that of the trial Court unless such an opinion suffers from illegality, impropriety or gross mis-appreciation of the evidence. Since no such defect or error has been pointed out, I find that the present petition lacks merit. The same is accordingly **dismissed**.



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17. The judgment dated 24.11.2015 passed by the Principal Magistrate, Juvenile Justice Board, Hoshiarpur is affirmed.

(VINOD S. BHARDWAJ)
JUDGE

12.11.2024

Mangal Singh

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