

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.A. No.78/2001

Reserved on.28.12.2007

Decided on.31.12.2007

State of H.P.

...Appellant.

Versus

Rachhpal Singh.

...Respondent

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?¹. No.

For the appealnt : Mr. V.K. Verma, Addl. Advocate General

For the respondents Mr. Ajay Sharma, Advocate.

Rajiv Sharma, J.

The respondent was prosecuted in criminal case No.66-II of 1997 for offences punishable under sections 279, 337, 304-A of the Indian Penal Code in the court of Chief Judicial Magistrate, Bilaspur and was acquitted by the Judicial Magistrate 1st Class, Nurgpur on 21.1.2000. The State has come in the appeal against the judgment dated 21.1.2000.

The prosecution case in nutshell is that on 1.4.1995 at about 8.35 P.M. one Rakesh Pathania has telephonically informed the police that an accident between scooter and van took place near Jachh. Consequently the FIR was registered and the investigation was carried out. The prosecution in order to prove the case examined as many as 12 witnesses. The accused/respondent was examined under section 313 of the Code of Criminal Procedure. The Judicial Magistrate 1st Class, Nurgpur acquitted the respondents on 21.1.2000. Hence, this appeal.

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?* No.

The learned Additional Advocate General had strenuously argued that the prosecution has proved its case against the respondent-accused.

Mr. Ajay Sharma, Advocate appearing on behalf of the respondent had supported the judgment dated 21.1.2000.

I have heard the learned counsel for the parties and have gone through the record of the case.

The prosecution had examined pillion riders of the scooter, namely, Sh. Rajan Kumar and Sh. Brij Nandan as PW-5 and PW-10. PW-5 Sh. Rajan Kumar though has stated that the scooter was not driven at high speed, but could not tell the speed of the van. Sh. Brij Nandan PW-10 was declared hostile by the prosecution. He could not point out whether the respondent was driving the van in a rash and negligent manner. He has admitted in his cross-examination that deceased Shankar was in a hurry to fetch the milk. It is evident from the site plan Ex.PW-12/E that the van was being driven at left side of the road when the scooter hit it. The wind screen of the van and other broken articles fell at point 'A' which is 15 feet away from the kucha portion of the left side of the van. One of the injured witnesses had admitted that the scooter was not over taking any other vehicle at the time of accident itself shows that the scooter was being driven in the middle of the road. The prosecution has failed to prove that the van was being driven by the respondent in a rash and negligent manner. The trial court on the basis of the correct appreciation of the prosecution evidence has acquitted the respondent.

In view of the observations made hereinabove, this Court will not interfere in the well reasoned judgment of the learned Judicial Magistrate, 1st Class, Nurpur acquitting the respondents on 21.1.2000.

The result of the above discussion is that the appeal fails and the same is dismissed. The bail bonds furnished by the accused are discharged.

(Rajiv Sharma), Judge

December 31, 2007
Awasthi