

CRR-1023-2007(O&M)

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In the High Court of Punjab and Haryana at Chandigarh

CRR-1023-2007(O&M)
Date of decision: 30.09.2015

Sham Lal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. N.L. Sammi, Advocate
for the petitioner.

Mr. J.S.Sekhon, AAG, Punjab.

SABINA, J.

Petitioner had faced the trial under Sections 279, 304-A of the Indian Penal Code, 1860 (*IPC* for short) in FIR No.157 dated 05.08.1997, registered at Police Station Focal Point, Ludhiana. Trial Court vide judgment/order dated 04.02.2005 ordered the conviction and sentence of the petitioner under Sections 304-A and 279 IPC. Aggrieved against the said judgment/order of his conviction and sentence, petitioner preferred an appeal and the same was dismissed by the Appellate Court vide order dated 01.06.2007 . Hence, the present petition.

Prosecution story, in brief, is that complainant Rajinder Singh was travelling with his father on motorcycle

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bearing No.MP-20-K-1508 on 04.08.1997 from Ludhiana towards Sahnewal. Darshan Singh was driving the motorcycle. When they reached near country-made liquor shop, G.T. Road, Dhandari Kalan, father of the complainant suddenly realized that he had some urgent work and had to immediately return to Ludhiana. Complainant descended from the motorcycle. Darshan Singh turned his motorcycle back towards Ludhiana side at about 05:45 p.m. In the meantime, a maruti car bearing No.DL-4-CA-3283 came at a fast speed from Sahnewal side and struck against the motorcycle. The motorcycle of Darshan Singh was dragged upto some distance. Complainant took his father to the hospital and thereafter went to Alamgir to inform his family members. When the complainant returned to the hospital on the next day at about 11:15 a.m., he came to know that his father had died.

After completion of inquiry and necessary formalities, challan was presented against the petitioner.

Learned counsel for the petitioner has submitted that complainant Rajinder Singh had, in-fact, not witnessed the accident but had been introduced as a witness at a later stage. Admittedly, complainant had not signed any paper in the hospital at the time of admission of his father. Learned counsel has further submitted that assuming that the

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complainant had witnessed the accident even than it was evident that the accident had not occurred due to rash and negligent driving of the petitioner. As per the prosecution case itself, the deceased had taken a u-turn. The car driven by the petitioner was coming from Sahnewal side and was going towards Ludhiana. It was probable that the deceased had taken a u-turn without caring for the vehicles coming on the G.T. Road.

Learned State counsel, on the other hand, has opposed the petition.

In the present case, the prosecution case rests on the testimony of the complainant-Rajinder Singh who appeared in the witness-box as PW-5. The said witness has deposed as per the contents of the FIR. The case of the complainant is that when they reached near the liquor vend, his father realized that he had to return to Ludhiana for some urgent work and he descended from the motorcycle, whereas, his father took a u-turn and started towards Ludhiana side. The story put-forth by PW-5 does not appear to be probable. There was no occasion for the father of the complainant to have left the complainant at the liquor vend and return to Ludhiana. Moreover, it is the case of the complainant that his father had asked him to wait there and told him that he would return after bringing the briefcase. If that be so then the

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father of the complainant should have taken the complainant alongwith him so that both father and son could travel together to Ludhiana. Moreover, PW-5 has not signed any papers in the hospital at the time of admission of his father, which also raises a doubt qua his presence at the spot and the plea taken by him that he himself has got admitted his father in the hospital. Complainant would not have left his father unattended in the hospital till the next morning and return at about 11:15 a.m. knowing that his father had suffered serious injuries.

Assuming that the complainant had witnessed the accident, even than it is doubtful as to whether the accident had taken place due to rash and negligent driving of the petitioner. It is probable that the deceased took a sudden u-turn and was hit by the car driven by the petitioner which was being driven on the G.T. Road. Petitioner could not be said to be having the knowledge that the motorcyclist would take a sudden u-turn. Hence, in the present case, prosecution story is rendered doubtful. It is probable that the deceased might have met with the accident on account of his own negligent.

Keeping in view the facts and circumstances of the present case, the Courts below erred in ordering the conviction of the petitioner qua the charges framed against him.

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Accordingly, this petition is allowed. Impugned orders/judgments passed by the Courts below are set aside. Consequently, petitioner is ordered to be acquitted of the charges framed against him by giving him benefit of doubt.

September 30, 2015
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(SABINA)
JUDGE