
(2001) 04 P&H CK 0024
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 35 of 2001

Ram Parshad

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 04-04-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161
Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (2001) 4 RCR(Criminal) 11

Hon'ble Judges : Amar Dutt, J

Bench : Single Bench

Advocate : Mr. Navneet Singh for Mr. B.S. Rana, for the Appellant; Mr. Rajesh Bhardwaj, Assistant A.G., for the Respondent

Final Decision : Allowed

Judgement

Amar Dutt, J.—Ram Parshad has filed the present revision to challenge the judgment dated 11.10.2000 passed by the Additional Sessions Judge, Sonapat by which his appeal against the conviction and sentence recorded against him by the Judicial Magistrate I Class, Sonapat on 11/12.8.1999 under Sections 279 and 304-A, IPC was dismissed.

2. On 18.9.1988, Jagbir Singh along with his daughter Sweety and his brother Deepak was moving on his scooter bearing registration No. HNK-6088. When they reached near the school of village Sisana, at 4.30 P.M. a truck bearing registration No. HYF-5877 came from the opposite side at a very high speed and the same was being driven in a very rash and negligent manner. The truck hit the scooter and on account of the impact, they received multiple injuries. The driver of the truck had run away from the spot after the incident. In the meantime a Maruti car reached near the place of occurrence and in it the injured were removed to the Civil Hospital, Kharkhoda. Sweety succumbed to the injuries.

3. On the statement of Jagbir Singh, F.I.R. was registered in the case and during investigation, the scooter was taken into possession. The truck, the registration

certificate and the driving licence of the driver of the truck were also taken into possession. On completion of the investigation, a challan was put in against the petitioner.

4. The trial Court, after hearing the arguments, convicted and sentenced the petitioner to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs. 200/- u/s 279 IPC and rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- u/s 304-A IPC. In default of payment of fine, the petitioner was sentenced to undergo further rigorous imprisonment for two months. Both the sentences were to run concurrently. The appeal was dismissed. Hence, the present revision.

5. I have heard Shri Navneet Singh appearing for the petitioner and Shri Rajesh Bhardwaj, Assistant Advocate General, Haryana.

6. On behalf of the petitioner, it was submitted that the incident had taken place not on account of the negligence of the driver of the truck but on account of the fault of Jagbir Singh, who was driving the scooter. It was also submitted that the identity of the driver of the truck has not been fixed and so the petitioner could not be held responsible for the accident.

7. I have carefully considered the arguments advanced on behalf of the petitioner and have perused the record. The main grouse of the petitioner is that there is no evidence to prove that he was driving truck No. HYF-5877 at the time when the accident took place. It seems that though the police had, during the investigation, been handed over the driving licence of the petitioner by one Mahabir, who is stated to be the owner of the truck and the recovery memo, has been prepared, yet no statement of Mahabir has been recorded either about the handing over of the registration certificate and other documents pertaining to the truck or its driver. In the statement made before the Court, Pardeep @ Deepak PW5 does not indicate that he knew the driver of the truck, while the statement of Jagbir Singh does not throw any light upon the source of his knowledge about the identity of the driver of the truck. The Investigating Officer has not only been casual about the manner in which he has investigated the case but despite efforts being made by the trial Court to secure his presence has even not cared to appear in the witness box as a prosecution witness. This is not an isolated case where officers exercising criminal jurisdiction are faced with a difficulty of securing the presence of the official witnesses, especially the police officers, who have conducted the investigation of the case, and many a time the case fail on account of the callos indifference of such officers which invariably goes unnoticed.

8. In the present case, although the petitioner has already served a sentence of about 5 months yet I do not find any material on the record which would throw light on the manner in which the investigating agency was able to pin- point the identity of the driver of the truck No. HYF-5877. This is probably on account of the fact that the officer who investigated the case was not available at the time when the evidence was being recorded to assist the Public Prosecutor for even

the assertions made in the statement of Pardeep @ Deepak PW5 u/s 161 Cr.P.C. to the effect that the name of the petitioner had been disclosed by the cleaner of the truck has not been brought on the record as admissible evidence.

9. In these circumstances, where there is no admissible evidence available to connect the petitioner with the incident, the revision has to be accepted and the petitioner is acquitted of the charges framed against him. Ordered accordingly.

10. Before parting with the judgment, it would not be out of place to mention that either on account of paucity of time or complete lack of training some of the investigating officers overlook the need to collect material evidence for connecting any person alleged to be accused of an offence with the crime. They also do not make themselves available at the time when the evidence is being recorded to ensure that the fruits of their investigation are put forth before the Court of law in a proper manner but on some occasions are not available for getting even their own statement recorded which at times prove fatal to the case of the prosecution. This being one such case, I feel that it would be appropriate that the malady which is eating into the entrails of the system of administration of justice is brought to the notice of the persons responsible for maintenance of law and order so that the tendency can be curbed and malady cured. For ensuring that defaults of this type do not re-occur, it may be desirable for the Director Generals of Police of the States of Haryana and Punjab and Inspector General of Police, U.T. Chandigarh to consider the advisability of directing the officers-in-charge of the districts to secure monthly reports from all Public Prosecutors of cases where police officials do not appear to give evidence and the case of the prosecution is closed by order so that adequate measures can be taken against the erring officials.

11. Revision allowed.