

**IN THE COURT OF SH. SUKHWINDER SINGH,
SUB DIVISIONAL JUDICIAL MAGISTRATE, BALACHAUR.
(UID NO.PB0332)**

CNR No. PBSBA1000620-2020

Case No. CHI/146/2020

Presented on : 17-12-2020

Registered on : 17-12-2020

Decided on : 15-03-2024

STATE

VERSUS

**KULWINDER SINGH SON OF KISHORE CHAND, RESIDENT OF
DASGRAYIN, P.S ANANDPUR, DISTRICT ROPAR.**

....ACCUSED

**FIR NO.27 DATED 02.03.2018.
U/S 283, 337 AND 506 OF IPC
POLICE STATION:- CITY BALACHAUR.**

Present: Sh.Ashok Kumar, Learned APP for the State.
Sh.Naveen Kumar, Advocate for accused.

J U D G M E N T

1. The above named accused has been sent to face trial by the Officer Incharge of Police Station City Balachaur, under Sections 283, 337 and 506 of the Indian Penal Code.

2. **Succinctly**, case of the prosecution is that on 01.03.2018 at about 02:30 PM in the area of J.T. Road, Balachaur, near Fourseason Palace, accused parked his car bearing No.PB-12-V-1325 on the road without any indication and opened the window of the same without seeing back whether anybody is coming behind or not and accused thereby

caused danger, obstruction and injury to the complainant Santokh Kaur who was coming behind on the motorcycle bearing No.PB-32-H-9470 with her son and they suffered simple injuries. Accused also threatened the complainant Santokh Kaur and her son Sanampal with injury to their person, reputation or property. On the above stated allegations present FIR was registered against the accused. Site plan of the occurrence was prepared. The accused was arrested. The vehicles involved in the accident along with their ownership proof/documents were taken into police possession. Statements of witnesses were recorded. On completion of investigation challan was presented in the Court.

3. On appearance of the accused in Court, he was supplied with the copies of challan, as well as other documents annexed thereto, free of costs as required u/s 207 Cr.P.C.

4. After hearing APP and learned defence counsel **prima facie** case was found to have been made out against accused U/s 283, 337 and 506 of Indian Penal Code. Accused was charge sheeted accordingly. Contents of charge were explained and read over to accused in Punjabi language to which he pleaded not guilty and claimed trial.

5. Onus to prove the case was on prosecution and in order to prove its case, prosecution examined **Santosh Kaur as PW-1, Sanampal Singh as PW-2, ASI Joginder Singh as PW-3 and ASI Sikander Pal as PW-4**. Thereafter, APP for State closed the prosecution evidence stating that since complainant and eye witness/injured have turned hostile and did not support the prosecution and no useful purpose will be served by

examining further official witnesses, which are formal in nature.

6. The accused was examined u/s 313 Cr.P.C. by putting entire incriminating evidence to which he has denied and pleaded that he has been falsely implicated and is an innocent. The accused opted not to lead evidence in defence.

7. I have heard the APP and Ld.defence counsel and have perused the record carefully.

8. It is vehemently argued by the learned APP that **ASI Joginder Singh as PW-3 and ASI Sikander Pal as PW-4** have duly proved the case of the prosecution. He contended that although the **complainant PW-1 Santosh Kaur and injured/eye witness i.e. PW-2 Sanampal Singh** did not support the prosecution case and were declared hostile at his request, yet accused can be convicted on the basis of statements suffered by them before the police u/s 161 Cr.P.C. As such their statements recorded before the police have duly proved the offence against the accused and accused is liable to be convicted accordingly.

9. **Per Contra**, learned defence counsel has refuted the assertions made by the prosecution and has assiduously contended that prosecution has miserably failed to prove its case against accused beyond shadow of any reasonable doubt, because the main witnesses of the prosecution in the present case i.e. **complainant PW-1 Santosh Kaur and injured/eye witness i.e. PW-2 Sanampal Singh** have resiled from their statements recorded before the police and have not supported the prosecution version and were declared hostile at the request made by APP for the State.

Therefore, accused must be given benefit of doubt and be acquitted in this case.

10. After hearing the arguments advanced by APP for the State as well as defence counsel and after perusing the material available on record, this court is of the considered view that the prosecution has failed to prove its case against the accused beyond any shadow of reasonable doubt, because in this case the **complainant PW-1 Santosh Kaur (on the basis of whose statement the criminal law was set into motion against the present accused)** and **injured/eye witness i.e. PW-2 Sanampal Singh** have not supported the version of the prosecution.

11. In order to prove its case, the prosecution has examined **complainant Santosh Kaur as PW-1**, but she has not supported the case of prosecution on any material particulars and she was declared hostile at the request of APP and was allowed to be cross-examined but nothing fruitful came out of her cross-examination. She was confronted with her statement alleged to have been made before the police, but she denied having made such statement before the police. She stated that the accused was not the driver of the said offending vehicle who committed the offence. Prosecution further examined **injured/eye witness namely Sanampal Singh as PW-2** but he also did not support the case of prosecution on any material particulars and he was declared hostile at the request of APP and was allowed to be cross-examined but nothing fruitful came out of his cross-examination. He was confronted with his statement alleged to have been made before the police, but he denied having made

such statement before the police. He stated that the accused was not the driver of the said offending vehicle who committed the offence.

12. Prosecution further examined **ASI Joginder Singh (retired)** as **PW-3**, who deposed regarding the investigation conducted by him and also proved on record documents such as **Statement of complainant Ex.P3**, **police proceedings Ex.P3/A**, **FIR Ex.P4**, **endorsement Ex.P5**, **rough site plan Ex.P6**, **recovery memo Ex.P7**, **memo Ex.P1**, **attested copy of RC Ex.P9**, **copy of DL Ex.P10**, **insurance Ex.P11**, **arrest memo and personal search memo Ex.P12 and Ex.P13**, **OPD Slip Ex.P14**, **X-ray report Ex.MO1**, **screen report of the Car Ex.P15**, **application moved by ASI Sikander Pal to prove DL of accused Ex.P25**, **screen report of the same Ex.P26**, **mechanical test report Ex.P27**, **case property Ex.Mo2 and Ex.Mo3**. During cross-examination he stated that there was no CCTV footage of the occurrence. There was no blood on the recovered weapon in this case. Prosecution further examined **ASI Sikander Pal as PW-4** who proved on record documents i.e. **statement of complainant Ex.P3**, **police proceedings Ex.P3/A**, **FIR Ex.P4**, **endorsement Ex.P5**, **rough site plan Ex.P6**, **recovery memo Ex.P7**, **memo Ex.P1**, **copy of RC of vehicle bearing No.PB-12-V-1325 Ex.P9**, **copy of DL of Kulwinder singh Ex.P10**, **insurance Ex.P11**, **arrest and personal search memos Ex.P12 and Ex.P13**. **OPD Slip Ex.P14**, **X-ray report Ex.Mo1**, **screen report of the Car Ex.P15**, **application moved by him to prove DL of accused Ex.P25**, **screen report of the same Ex.P26**, **mechanical test report Ex.P27**, **case property Ex.MO2 and Ex.MO3**. During cross-examination he stated that there was

no CCTV footage of the occurrence. There was no blood on the recovered weapon in this case. The testimonies of these official witnesses have no binding effect on the case of prosecution when the material witnesses have resiled from their statements.

13. It is pertinent to mention here that statements suffered by the witnesses before the police are neither per-se admissible nor they have got any evidentiary value in the eyes of law. The offences under which the charges have been framed against the accused can only be proved on the basis of the statements of the witnesses recorded in the court, but in this case the material witnesses of the prosecution i.e. complainant and eye witness/injured persons have turned hostile and did not establish the offences as alleged in the report under Section 173 Cr.P.C. Further, the testimonies of remaining official witnesses are not sufficient to prove the guilt of the accused when the material witnesses have resiled from their statements.

14. In view of the above discussion, **the accused is acquitted of the charges framed against him by giving him benefit of doubt.** The case property, if any, be disposed of as per rules after expiry of the period of appeal/revision, as the case may be. File be consigned to the Judicial Record Room, after due compliance.

Pronounced in open Court:

Dated:15.03.2024.

(Sahil)

(Sukhwinder Singh)
Sub Divisional Judicial Magistrate,
Balachaur (UID No.PB-0332)

Directly dictated on computer

Present: Sh.Ashok Kumar, Learned APP for the State.
Sh.Naveen Kumar, Advocate for accused.

PW-3 ASI Joginder Singh and PW-4 ASI Sikander Pal examined completely. Learned APP for the State, closed the evidence on behalf of prosecution, vide separate statement. Statement of accused under Section 313 Cr.P.C., recorded to which accused opted not to lead evidence in defence.

Arguments heard. Vide my separate judgment of even date, **accused is acquitted of the charges framed against him.** It is pertinent to mention here that regular bail bonds/surety bonds which have already been furnished by the accused, be treated for the purpose of appeal before the higher Court by virtue of Section 437-A Cr.P.C. File be consigned to the Judicial Record Room, SBS nagar after due compliance.

Pronounced in open Court:

Dated:15.03.2024.

(Sahil)

(Sukhwinder Singh)
Sub Divisional Judicial Magistrate,
Balachaur (UID No.PB-0332)

Directly dictated on computer