

In the Court of Mrs. Anuradha, Judicial Magistrate Ist Class, Panipat.

Criminal Case No.2797 of 2013.

Date of Institution: 22.10.2007.

Date of Decision: 10.02.2014.

State Versus Mahender Singh son of Ram Bhaj, resident of
village Patti Kalyana, P.S. Samalkha, Distt.
Panipat.

.....Accused.

F.I.R. No.285 dated 06.09.2007.

Under section: 279, 337 and 304-A IPC.

Police Station: Samalkha.

Present: Shri Jagdish Rana, APP for the State.
Accused on bail with Shri K.B. Arya, Advocate.

J U D G M E N T

The above named accused has been sent to face trial by SHO Police Station Samalkha, for alleged commission of offences punishable under Sections 279, 337 and 304-A of Indian Penal Code.

2. The case of the prosecution in brief is that on 05.09.2007 police received an information that one Sahab Singh was been admitted at C.H.C., Samalkha in injured condition due to injuries received in roadside accident and has been referred to General Hospital, Panipat. Upon receiving this information, ASI Sukhbir Singh reached General Hospital, Panipat where the doctor informed that the injured has not been admitted there. Thereafter, again an information was received regarding admission of the injured in Prem Hospital, Panipat and upon receiving information, ASI Sukhbir Singh reached Prem Hospital, Panipat where the doctor opined that the injured

Sahab Singh is not fit to make any statement. Also no eyewitness to the accident was found present there. Thereafter, on 06.09.2007 police received an information that injured Sahab Singh has expired and upon this information, ASI Sukhbir Singh alongwith EHC Suresh Kumar reached Prem Hospital, Panipat where the eyewitness Dharambir son of Prem Singh met him and got his statement recorded wherein the complainant alleged that on 05.09.2007 he went to the house of his sister Kamlesh at Samalkha and his brother-in-law Sahab Singh was working at Gupta Bolt Master, G.T. Road Samalkha and on that day he also went with his brother in law for doing labour work. At about 12:30 PM he alongwith his brother in law Sahab Singh were going to Samalkha from the factory for some work and the motorcycle was being driven by Sahab and the complainant himself was the pillion rider. The complainant further alleged that when they reached near the cut at New Bus Stand, Samalkha, the driver of a Bolera Jeep bearing no.HR-01W-0007 came from the four line and suddenly took his Jeep on the road due to which their motorcycle got struck with the front tyre of the Jeep. The motorcycle fell down on the road and received injuries on his hand and feet. The complainant further alleged that thereafter the complainant and the driver of that Jeep got admitted Sahab Singh to CHC, Samalkha from where he was referred to Panipat. Thereafter, the factory owner Sandeep came there and they got admitted Saha Singh at Prem Hospital, Panipat but said Sahab Singh has succumbed to the injuries. The complainant further alleged that the Bolero Jeep driver by driving his Jeep in a rash and negligent manner has caused the accident in question and he

can identify him. Upon this complaint, the present F.I.R. was registered. Investigation was carried out. During investigation, accused was arrested and upon completion of the investigation, police report under Section 173 of Criminal Procedure Code was prepared and presented before the Court for commencement of trial.

3. Upon appearance, the accused was supplied with the copies of the police report and other documents appended therewith free of costs as envisaged under section 207 of Criminal Procedure Code.

4. After hearing arguments on charge and on finding a prima facie case against the accused, vide order dated 03.04.2008, the accused was charge-sheeted under sections 279, 337 and 304-A of Indian Penal Code, to which he pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution examined SI Lal Singh as PW2 who should have been PW1, Dharambir (complainant) as PW3 who should have been PW2, ASI Randhir Singh as PW4 who should have been PW3, Prem son of Hari Singh as PW5 who should have been PW4, Ranbir Singh son of Mange Ram as PW6 who should have been PW5 and Randhir Singh, Retd. DSP as PW6. Thereafter, evidence of prosecution was closed by court orders on 25.01.2014.

6. Statement of accused under section 313 of Criminal Procedure Code was recorded in which he denied all the incriminatory evidence which was put against him. The defence did not lead any evidence.

7. I have learned APP for the State, learned defence counsel and have also gone through the case file very carefully.

8. In the present case, it was incumbent upon the prosecution to prove that on 06.09.2007 accused by driving his vehicle no.HR-01W-0007 in a rash and negligent manner caused death of Sahab Singh. This was the point of determination and in order to prove that prosecution has examined SI Lal Singh who appeared as PW2 (who should have been mentioned as PW1) and is a formal witness and has deposed about lodging of F.I.R. Exhibit-PW2/A.

9. PW3 Dharambir (who should have been mentioned as PW2) who is the complainant has deposed that on 05.09.2007 his brother-in-law Sahab Singh had met with an accident with a Bolero Jeep bearing no.HR-01W-0007. He further deposed that he does not know as to who was driving that Jeep as neither the accident has taken place in his presence nor he was present with Sahab Singh at the time of the accident. He has further deposed that he did not disclose to the police that he was present with Sahab Singh on the date of the accident. At this stage, this witness was declared hostile and during his cross-examination by learned APP for the State he stated that he never made any statement Exhibit-PW3/A to the police.

10. PW4 ASI Randhir Singh (who should have been mentioned as PW3) deposed that on 13.09.2007 he mechanically examined motorcycle no.HR-60-5025 and Jeep No.HR-01W-0007 and proved his reports Exhibit-PW4/A and Exhibit-PW4/B.

11. PW5 Prem son of Hari Singh (who should have been mentioned as PW4) has deposed that on 13.09.2007 he took the Bolero Jeep on superdari from the Court and the superdarinama is Exhibit-PW5/B.

12. PW6 Ranbir Singh son of Mange Ram (who should have been mentioned as PW5) has deposed that on 06.09.2007 upon receiving information regarding the accident of Sahab Singh he reached Prem Hospital, Panipat and there he came to know that Sahab Singh has expired. He further deposed that he identified the dead body of Sahab Singh and his statement Exhibit-PW6/A was recorded by the police which bears his signatures.

13. PW6 Randhir Singh, Retired DSP has deposed that on 30.09.2007 after completion of the investigation, he prepared and presented the police report under Section 173 Cr.P.C. which bears his signatures.

14. From the evidence of the prosecution, it is crystal clear that not an iota of evidence incriminating against the accused has come on record. The star witness of the prosecution i.e. the complainant has turned hostile and refused to utter even a single word against the accused thereby denying his statement made to the police and further refusing to identify the accused. Further, the Investigating Officer has not appeared before the Court and due to his non examination certain documents like site plan etc. have remained unproved. The remaining prosecution witnesses are formal in nature and have deposed about lodging of FIR, proving the mechanical examination report of the accidental vehicles, obtaining the offending vehicle on superdari, identification of the dead body and submission of police report under Section 173 Cr.P.C. Moreover, no independent witness has been examined by the prosecution. The prosecution has miserably failed to prove that it was the accused person who drove the offending Jeep in a rash and

negligent manner on the fateful day and thereby committed an offence under Section 279 and 304-A of IPC. Hence, the chain of events reflects several missing links and bring the case of prosecution in circumference of doubts the benefit of which must be extended to the accused. Therefore, extending him the benefit of doubt the accused is acquitted of the charges levelled against him. His bail bonds and surety bonds stand discharged. File be consigned to the record room after due compliance.

**Pronounced:
10.02.2014.**

**(Anuradha),
Judicial Magistrate Ist Class,
Panipat.**

This judgment contains six pages and each page has been checked and signed by me.

(Anuradha),
JMIC, Panipat.

State vs. Mahender

Present: Shri Jagdish Rana, APP for the State.
Accused on bail with Shri K.B. Arya, Advocate.

Statement of accused under Section 313 Criminal Procedure Code recorded. Accused closed his defence evidence.

Arguments heard. Vide my separate judgment of even date, accused has been acquitted of the charges levelled against him. His bail bond and surety bond stand discharged. File be consigned to the record room after due compliance.

Announced on 10.02.2014.

*(Anuradha),
Judicial Magistrate Ist Class,
Panipat.*