

PBGDA10045462019



Presented on : 26-11-2019
Registered on : 26-11-2019
Decided on : 20-12-2022
Duration : 3 years, 0 months, 24 days

IN THE COURT OF
Judicial Magistrate - Ist Class
AT Batala, Gurdaspur
(Presided Over by Ms. Prabhjot Kaur)

CHI/549/2019

State	Versus	Daler Singh son of Dalbir Singh resident of Bhitewid, PS Kahnuwan. Accused
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FIR No. 133 dated 11.09.2019
Police Station :- Sadar, Batala.
Under Sections :- 279, 337, 338, 427 of Indian Penal Code.

Present: Ld. APP for the State
Accused Daler Singh on bail with counsel Sh. Sanjiv Agnihotri.

JUDGMENT

1. The above stated accused has been forwarded by the Officer In-charge, Police Station Sadar, Batala before this court to face trial for the commission of offences punishable under sections 279/337/338/427 of Indian Penal Code.
2. The prosecution story, in brief, is that on 11.09.2019, ASI Amarjit

Singh alongwith other police officials was on patrolling duty and were present at Dheer bypass when Dalbir Singh s/o Kulwant Ram alongwith Tarsem Singh s/o Hazara Singh got recorded his statement to the effect that on that day he alongwith his co-villagers were returning from Nirankari Satsang Bhawan, Pathankot, on his Bolero Pickup car bearing no. PB-02-BU-9861. When they reached Batala bypass, one bus belonging to Robin Company bearing no. PB-02-CC-9618 was coming from Amritsar side in a very high speed and was driven in a rash and negligent manner when it hit the car of complainant. Injuries were received by all the passengers including the complainant himself. However, the bus driver ran away from the spot taking his bus. After recording the statement of complainant, IO sent ruqa to police station, on the basis of which, formal FIR was registered. He also went to the spot and prepared rough site plan. On 15.09.2019, Sukhbir Singh s/o Harbans Singh produced the accused before the IO and accordingly, he was nominated in the present case. Accused was arrested in this case and offending vehicle was taken into police possession vide recovery memo. Statements of witnesses were recorded and on completion of investigation, challan against accused was presented in the court u/s 279, 337, 338, 427 IPC.

3. On appearance of accused in the court, copies of all the documents sent along with the report and relied upon by prosecution, were supplied to him, free of costs as per mandatory requirement of section 207 Cr.P.C.

4. From the perusal of those documents and after hearing learned A.P.P. for the State and learned defence counsel, sufficient grounds were made out to initiate trial against accused for the commission of offences punishable under sections 279/337/338/427 of Indian Penal Code and the charges were framed

accordingly, to which accused pleaded not guilty and claimed trial.

5. To substantiate its case, prosecution got examined following witnesses:-

PW1	Tarsem Singh	Hostile
PW2	Dalbir Singh, Complainant	Hostile
PW3	Aakash	Hostile
PW4	Reeta	Hostile
PW5	Asha	Hostile
PW6	Bawi	Hostile
PW7	Satwanti	Hostile
PW8	Neelam	Hostile
PW9	SI Balraj Singh	Investigation officer to prove on record statement of complainant Ex. P1 , ruqa Ex. P2 , FIR Ex. P3 , rough site plan Ex. P4 , recovery memo of accidental vehicle and offending vehicle Ex. P5 and Ex. P6 , RC of Balero Ex. P7 , driving license Ex. P8 , their recovery memo Ex. P9 , arrest memo Ex. P10 , driving license of accused Ex. P11 , RC of bus Ex. P12 , their recovery memo Ex. P13 , test report Ex. P14 and Ex. P15 , identification memo Ex. P16 , application to DTO, Amritsar regarding verification of ownership of bus Ex. P17 , its report Mark 1,

		application to DTO, Gurdaspur regarding verification of license of accused Ex. P18 , its report Mark 2, application for verification of accidental vehicle Ex. P19 and its report Mark 3.
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Thereafter, evidence of prosecution was closed by order as all the material witnesses were examined and no other PWs came present despite numerous opportunities.

6. Statement of accused under Section 313 Cr.P.C was recorded and all the incriminating material appearing against accused was put to him, to which he pleaded false implication but did not opt to lead any evidence in defence.

7. This court has heard the submissions made by Ld. APP for the State and Ld. Defence counsel and has also gone through the prosecution evidence. From the entire case, following points for determination emerge out of:

- 1. Whether on 11.09.2019 at about 8 PM accused drove bus bearing no. PB-02-CC-9618 on a public way was in a manner so rash and negligent as to endanger human life and safety of others ?***
- 2. Whether accused caused grievous hurt to passengers of the accidental car by driving above said car rashly and negligently so as to endanger human life and personal safety of others?***

3. *Whether accused committed mischief by causing wrongful loss and damage to the moped belonging to injured valued at more than Rs. 50/-?*
4. *Whether evidence led on file by prosecution is sufficient to hold accused guilty and to convict and sentence him ?*

POINTS NO.1 to 4 FOR DETERMINATION :-

8. All points for determination have been taken up together for the sake of brevity and to avoid repetition. Learned APP for the State argued that accused has committed offences punishable under section 279, 337, 338, 427 of IPC and he has prayed for conviction of accused by taking into consideration the statement of complainant and other witnesses, recorded by police during investigation.

9. On the other hand, Ld. Defence counsel has raised his counter arguments thereby stating that accused is absolutely innocent person and he has been falsely implicated in this case. Prosecution has miserably failed to prove its case beyond the shadow of reasonable doubt because material witnesses in this case i.e. complainant and eye witness have not supported the case of prosecution and have been declared as hostile. Thus, affording benefit of doubt, accused must be acquitted for want of proper, cogent and convincing prosecution evidence.

10. After giving thoughtful consideration to the rival submissions made by Ld. APP for the State as well as Ld. Defence counsel, this court has minutely scrutinized the oral and documentary evidence and after going through the entire record otherwise available on the file, is of the considered view that it is the

burdened duty of prosecution to prove its case beyond reasonable doubt. Accused has constitutional right to remain silent during the course of trial and if any doubt is created in the case of prosecution, thus benefit of it must be given to accused.

11. In the present case, **PW9 SI Balraj Singh**, the investigating officer was examined who proved the sequence of investigation and proved on record statement of complainant **Ex. P1**, ruqa **Ex. P2**, FIR **Ex. P3**, rough site plan **Ex. P4**, recovery memo of accidental vehicle and offending vehicle **Ex. P5** and **Ex. P6**, RC of Balero **Ex. P7**, driving license **Ex. P8**, their recovery memo **Ex. P9**, arrest memo **Ex. P10**, driving license of accused **Ex. P11**, RC of bus **Ex. P12**, their recovery memo **Ex. P13**, test report **Ex. P14** and **Ex. P15**, identification memo **Ex. P16**, application to DTO, Amritsar regarding verification of ownership of bus **Ex. P17**, its report Mark 1, application to DTO, Gurdaspur regarding verification of license of accused **Ex. P18**, its report Mark 2, application for verification of accidental vehicle **Ex. P19** and its report Mark 3.

12. **Dalbir Singh**, complainant, while appearing as **PW-2** deposed that on 11.09.2019, he alongwith his co-villagers were returning from Nirankari Satsang Bhawan, Pathankot, on his Bolero Pickup car bearing no. PB-02-BU-9861. When they reached Batala bypass, one bus belonging to Robin Company bearing no. PB-02-CC-9618 was coming from Amritsar side in a very high speed and was driven in a rash and negligent manner when it hit the car of complainant. Injuries were received by all the passengers including the complainant himself. However, the bus driver ran away from the spot taking his bus. He further deposed that he has not seen the present accused at the place of the said occurrence neither he is aware

about the registration number of the offending vehicle. He further deposed that neither he identified the accused present in the court nor got recorded any statement before police. **PW-2 Dalbir Singh** was declared to be suppressing truth and was allowed to be cross-examined by learned APP for the State, but even after lengthy cross-examination, nothing favourable to the case of prosecution came out.

13. Similarly, **PW-1 Tarsem Singh**, **PW3** Aakash, **PW4** Reeta, **PW5** Asha, **PW6** Bawi, **PW7** Satwanti, **PW8** Neelam, the alleged injured/eye witnesses, were also declared to be suppressing truth and were allowed to be cross-examined by Learned APP for the State, but even after lengthy cross-examination, nothing favourable to the prosecution version came out.

14. No doubt, statements of hostile witnesses are not to be thrown overboard and even a part of the statement of hostile witness, which is consistent with the prosecution story, can still be of help to convict accused. In the case titled as **State of Rajasthan Vs. Teg Bahadur 2004 (4) RCR (Cr.) 538**, Hon'ble Supreme Court of India has held that evidence of a hostile witness should not be totally rejected, if submitted in favour of prosecution or accused, but it can be subject to close scrutiny and that portion of the evidence, which is consistent with the case of prosecution or defence may be accepted. I have gone through the statements of complainant **PW-2 Dalbir Singh** and eye witnesses PW1, PW3 to PW8 from that angle also. But I do not find it to be of any assistance to the case of prosecution. It transpires that the star and material witnesses in the present case have turned hostile and failed to support the case of prosecution. Moreover, instead

of supporting the prosecution version, complainant and eye witness have shattered it.

15. There is nothing in the case file, which can connect the accused present in the court with the offence charged with.

16. Therefore, in view above discussion, it would be valid enough to conclude that prosecution has miserably failed to prove its case against accused. Consequently, accused Daler Singh is ordered to be acquitted of the charges framed against him. His bail bonds and surety bonds stands discharged. The case property, if any, is ordered to be disposed of as per rules, after awaiting the result of appeal/ revision, if any. File be consigned to the record-room, after due compliance.

**Pronounced in open Court:
Dated: 20.12.2022**

**(Prabhjot Kaur), PCS,
Judicial Magistrate Ist Class,
Batala/UID No.PB0650.**

State Vs. Daler Singh
CIS No. CHI 549-2019

Prabhjot Kaur, PCS,
PB0650, JMIC, Batala.

Present: Ld. APP for the State
Accused Daler Singh on bail with counsel Sh. Sanjiv Agnihotri.

No other PW present despite numerous opportunities. Thus, remaining evidence of prosecution is closed by order. Statement of accused under Section 313 Cr.P.C was recorded putting him all the incriminating against him in the evidence led by prosecution to which he pleaded innocence.

Arguments heard and concluded. Vide my separate detailed judgment of even date, accused is ordered to be acquitted of the charges framed against him. File be consigned to the record-room.

Pronounced in open Court:
Dated: 20.12.2022

(Prabhjot Kaur), PCS,
Judicial Magistrate Ist Class,
Batala/UID No.PB0650.

Mansi
Stenographer-III

(Prabhjot Kaur), PCS,
PB0650, JMIC, 20.12.2022