

Harmanjit Singh Vs State of Punjab

**IN THE COURT OF SHRI KRISHAN KUMAR SINGLA,
ADDITIONAL SESSIONS JUDGE, SAS NAGAR (MOHALI).
Unique Identification Code No. (PB0197)**

CNR no. PBSA010087082019

CIS no. CRR 187-20123

Case no. 21.09.2019

Date of Order: 08.11.2023.

Harmanjit Singh son of Harjinder Singh, aged about 23 years, r/o village
Faizgarh, P.O. Chintanwala, Nabha.

..Revisionist.

Versus

1. State of Punjab.
2. Gurdeep Singh son of Malkit Singh, aged 34 years, village
Rangiyan, P.S. Morinda, Tehsil and District Rupnagar.

....Respondents.

**Criminal revision under Section 397 Cr.P.C. for setting
aside order dated 16.08.2019 passed by Ms. Garima
Gupta, JMIC, Kharar whereby application under
Section 319 Cr.P.C. to summon the petitioner in FIR
No.69 dated 13.04.2017 under Section 279,337,338,427
has been allowed and petitioner has been summoned to
appear on 24.09.2019 to face the trial.**

Claim in Revision

**Allow the criminal Revision with cost and set aside
order dated 16.08.2019 and subsequent proceedings
pending before JMIC, Kharar in this case.**

Present: Shri Dharambir Bhargav Adv. Counsel for revisionist.
Shri Ravinder Singh Addl. PP for the State/respondent no.1.
Respondent no.2 Gurdeep Singh in person along with
Shri Kamal Singh Saini Advocate.

JUDGMENT

1. This judgment of mine will dispose of the revision petition filed by revisionist against order dated 16.08.2019 passed by the court of Ms. Garima Gupta, learned Judicial Magistrate Ist Class, Kharar vide which application under Section 319 Cr.P.C. for summoning the petitioner in FIR No.69 dated 13.04.2017 under Section 270,337,338,427 has been allowed.

2. Perusal of the record reveals that FIR No.69 dated 13.04.2017 under Section 270,337,338,427, Police Station Sadar Kharar was registered on the statement of complainant Gurdeep Singh wherein he stated that he had Indigo Car No. PB-12-G-1180. The complainant has stated in the FIR that he is taking care of the family of his friend, who is living in the village Bhudmajra. He went to village Bhudmajra in his car on 13.04.2017. He went to Mohali alongwith Parleen Kaur d/o Gurtej Singh and Gurtej Singh's wife Sandeep Kaur and also Kamaljit kaur for taking medicine to Parleen Kaur. When he was going back to Bhudmajra from Mohali alongwith family of his friends at about 12.30 p.m. In front of him, a driver of the car was coming from Morinda side who was driving the car in rash and negligent manner. On seeing this he stopped his car at the side of road. The driver hit the scooter from the side which was driven by a sardar and his son and wife were also on the scooter. After that the rash driver banged into his car. They also fell in the pit at the side of the road and he came to know afterward that the car number

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was HR-51-AG-6193 in which girls were sitting and the driver was driving car with negligence and he hit them due to which they got injured and the FIR was registered.

3. Thereafter challan was presented against one Lakhbir Singh.

4. Charge was framed under section 279, 337, 338, 427 IPC PS Sadar Kharar against Lakhbir singh.

5. Thereafter case was fixed for prosecution evidence.

6. Respondent No.2 appeared in the witness box as PW1. On the basis of statement of Gurdeep Singh who appeared as PW-1 before the Ld. Trial court, an application under Section 319 Cr.P.C. was moved by the prosecution alongwith complainant making prayer that the accident was caused by revisionist by driving car bearing HR-51-AG-6193 being in rash and negligent manner at a very high speed in zig zag manner.

7. Thereafter on the basis of application under section 319 Cr.P.C. the revisionist was ordered to be summoned to face trial under Section 279, 337, 338, 427 IPC vide order dated 16.08.2019.

8. It is aggrieved by this order that the revisionist filed the present revision petition.

9. Notice of this revision was given to the respondents. Addl.PP appeared for the State and respondent No.2 appeared through Kamal singh Saini.

10. I have heard Shri Dharmbir Bhargav counsel for the revisisonist and Shri Ravinder Singh Addl. PP for the State and Shri Kamal singh Saini, counsel for respondent No.2.

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11. Contention of counsel for the revisionist is that impugned order dated 16.08.2019 whereby the revisionist has been ordered to be summoned to face trial is against law and facts. His contention is that after recording statement of the complainant investigation was carried out. The complainant went to the police station 3-4 times after registration of the case but at none point of time, he named the revisionist as the person who was driving his car in rash and negligent manner due to which alleged accident taken place. His contention is that at none point of time he made supplementary statement to the police. When he appeared in the witness box he suddenly named the revisionist as an accused and testified that car HR-51-AG-6193, which was firstly hitted with an scooter and then against the car of the complainant, was being driven by Harmanjit Singh. His contention is that statement of complainant is totally against the case of the prosecution and on the basis of statement of Gurdeep Singh alone, revisionist cannot be summoned to face trial. Statement of complainant is totally after thought only to involve the revisionist in a criminal case. His argument is that statement of complainant recorded in the court even otherwise is discrepant and unbelievable. Accordingly, the impugned order is not sustainable in the eyes of law. Thus prayer is made that impugned order dated 16.08.2019 be set and revision be allowed.

12. On the other hand, this submission has been refuted by counsel for respondent No.2 as well as by ld. Addl. PP for the State. Contention is that the impugned order is perfectly legal in accordance with law. In fact Lakhbir Singh who is facing trial is innocent person and

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was involved by leaving the real culprit. Complainant came to know that the person involved in the present case is innocent person when he appeared in the witness. Accordingly, he gave the details of the accident and named revisionsit and stated categorically on oath that driver of the offending Swift car was Harmanjit Singh who was present at the spot. Accused Lakhbir Singh had no connection with the car as the car was not belonging to Lakhbir Singh. It has been argued that accordingly, lower court came to this conclusion that there is sufficient material before the court on the basis of revisionist can be summoned to face trail under section 319 Cr.P.C. There is no illegality or perversity in the impugned order passed by Id. Lower court. So prayer is to dismiss the same.

13. Submissions have been considered and file has been scrutinised by me.

14. Record reveals that case of prosecution is that on 13.04.2017 the complainant who was driving the car bearing PB-12-G-1180 met with an accident . As per him one car No. HR-51-AG-6193 in which four other girls were riding, being driven by its driver came in rash and negligent manner from Morinda side. After seeing that car he parked his car in katcha path. The driver hit the scooter from the side firstly and thereafter that car was hitted against the car of the complainant. All the injured were admitted in Civil Hospital, Kharar and thereafter referred to GMCH, Sector 32, Chandigarh. It is thereby investigation was carried and challan against one Lakhbir Singh was presented.

15. When case was going for prosecution evidence, the

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complainant appeared in witness box. In his statement while appearing in witness box as PW1 he not only testified with regard that the offending car was driven by Harmanjit Singh revisionist. He also testified that the IO called him compromise with Harmanjit Singh 2-3 times where Harmanjit Singh alongwith his father Harpinder Singh remained present. When compromise could not be effected then charge sheet was presented and thereafter he came to know that IO has arranged Lakhbir singh son of Mohinder Singh as accused.

16. Connection of Lakhbir Singh could not be established on the file. The complainant in his statement categorically stated that the car which was hit against his car was being driven by Harmanjit Singh Revisionist and 4 other girls were also sitting in the car. In his statement he categorically stated that during investigation he was called for compromise with Harmanjit Singh but compromise could not be effected and it was accordingly thereafter that Lakhbir Singh was wrongly arrested as accused.

17. Ld. Lower court categorically observed that there is no reason for complainant to involve revisionist falsely and to absolve Lakhbir Singh from his liability. The version made by complainant cannot be doubted being injured witness. Nothing could be brought on file to show that revisionist was not present at the site of accused. It has been argued before this Court that real culprit was saved by the Police and one innocent person was involved who infact did not cause any accident.

18. Accordingly this court also consider that the ld. Trial court

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rightly came to the conclusion that in the facts and circumstances of the case, there is sufficient material on the basis of which Harmanjit Singh revisionist can be summoned to face trial under Section 279, 337, 338, 427 IPC.

19 There is no illegality or perversity in the order passed by the ld. Lower court for calling any interference by this court.

20. Hence, this revision is dismissed. Revision file be sent to the record room. Lower court record be returned.

Pronounced:

Dated:08.11.2023

(Krishan Kumar Singla)
Additional sessions Judge,
SAS Nagar (Mohali)
UID NO. PB0197

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Present: Shri Dharambir Bhargav Adv. Counsel for revisionist.
Shri Ravinder Singh Addl. PP for the State/respondent no.1.
Respondent no.2 Gurdeep Singh in person alongwith
Srhi Kamal Singh Saini Advocate.

Arguments heard. Vide my separate detailed judgment of even date, the revision petition stands dismissed as stated therein.

Record of learned trial court be returned forthwith after placing copy of this judgment, whereas revision file be consigned to record room.

Pronounced:

Dated:08.11.2023

(Krishan Kumar Singla)
Additional sessions Judge,
SAS Nagar (Mohali)
UID NO. PB0197