

**In the Court of Sh. Amarjeet Singh, PCS,
Judicial Magistrate 1st Class, Budhlada**

(Unique Identification No.PB0480)

Case Information No. CHI/11/2022

CNR No. PBMNA10002582022

Date of Decision: 03.02.2022

State Versus Baljit Singh son of Arjan Singh, resident of
village Khiwa Kalan, Bhikhi, District Mansa

-----Accused.

Case FIR No. 93 Dated 25.07.2021,
Under Sections 279, 337, 338, 427 of Indian
Penal Code,
Police Station: Boha.

Present:- Learned APP for the State.
Accused on bail, with counsel Sh. SK Garg, Advocate.

J U D G M E N T

The accused named above has been sent up by SHO, P.S.
Boha to stand trial for having committed offence punishable under
Sections 279, 337, 338, 427 of Indian Penal Code.

2. The factual matrix of the case as unfolded by the prosecution
in police report under Section 173 Cr.P.C. is that on 17.07.2021, one
telephone call was received from PS City Budhlada, that injured
Bhagwan Singh son of Hamir Singh, resident of Mal Singh Wala, got
admitted at SDH Budhlada, due to accident. Action be taken. On this, HC

Amarjeet Singh
JMJC/Budhlada (PB0480)

Pala Singh went to SDH Budhlada on same day and sought written opinion of concerned doctor for recording the statement of injured but concerned doctor wrote about referral of injured to Rajindra Hospital, Patiala. On 23.07.2021, after getting information, HC Pala Singh went to Max Hospital, Bathinda, where concerned doctor wrote about referral of injured for plastic surgery. On 25.07.2021, HC Pala Singh alongwith police party were on police patrolling towards Boha, Village Mal Singh Wala etc. and when police party was present at outer road of the village, then Gurbinder Singh son of Jagpal Singh, resident of village Mal Singh Wala got recorded the statement to the effect that he (complainant) resident of above stated address and he does domestic work the house of Bhagwan Singh son of Hamir Singh, resident of village Mal Singh Wala. On 22.07.2021, he was standing at Dhaba near Krishna Petro on Boha-Ratia Road for his domestic work. Then from Boha side, one motorcycle make Discover Bajaj bearing registration No. PB-03T-3585, which was being driven by his co-villager Bhagwan Singh. At about 1:30 PM, one tractor make Sonalika bearing registration No. PB-03BB-4855 alongwith trolley being driven by Baljit Singh son of Arjan Singh, who was already known to him (complainant). The said tractor was being driven on a high speed and in a negligent manner and hit the same into the motorcycle of Bhagwan Singh. Said Bhagwan Singh alongwith motorcycle fell on the road. Bhagwan Singh received several injuries on his mouth and other part of the body and the motorcycle was also damaged badly. He (complainant) started taking care of Bhagwan Singh and in the meantime

Baljit Singh alongwith his tractor-trolley ran away from the spot. He (complainant) with the assistance of public, got Bhagwan Singh admitted at SDH Budhlada, where after giving first aid concerned doctor him to Rajindra Hospital, Patiala. But the brother of Bhagwan Singh got Bhagwan Singh admitted at Max Hospital, Bahtinda for a bad treatment, where on 23.07.2021 concerned doctor referred him for plastic surgery and therefore, Bhagwan Singh got admitted at Cosmo Super Specialty Hospital, Bathinda, where he is under treatment. On the basis of the statement of the complainant, a case was registered under Sections 279, 337, 338, 427 of IPC.

3. The instant case against the accused was registered on the statement made by Gurwinder Singh. During the course of ensuing investigation, police reached the spot of occurrence and prepared the site plan and also recorded statements of the witnesses under Section 161 Cr.P.C. Complainant was medically examined. Accused was arrested. Recovery memos were prepared. The completion of the investigation was followed by submission of the police report under Section 173 Cr.P.C. in the Court.

4. On presentation of the challan and appearance of accused, necessary documents were supplied to him as envisaged under Section 207 of Cr.P.C.

5. Finding a prima-facie case, a charges for the offence punishable under Sections 279, 337, 338, 427 of IPC against the above said accused were framed. The charge was read over and explained to the

accused in his own language to which accused pleaded not guilty and claimed trial.

6. In order to prove its case, prosecution has examined PW1 Gurwinder Singh, PW2 Bhagwan Singh, PW3 Pritam Singh, PW4 ASI Pala Singh. Thereafter, Ld. APP for the State closed prosecution evidence.

7. The statutory statement under Section 313 of Code of Criminal Procedure of the accused was recorded whereby all the incriminating evidence on record was put to him to which the accused pleaded his innocence and his having been falsely implicated in the present case by the police. However, the accused did not lead any evidence in his defence.

8. This Court has heard the submissions made by the learned APP for the State as well as the learned Defence Counsel and from the close scrutiny of the prosecution evidence led by the prosecution, the following point for determination emerge out of the case :-

Whether on 22.07.2021 at about 1:30PM in the area of main road Boha to Ratia near Krishna Petro, accused drove tractor make Sonalika bearing no. PB 03BB 4485 on a public way on a manner so rash and negligent as to endanger human life or to be likely to cause hurt or injury to any person and thereby has committed offence punishable under Section 279 of IPC,

Secondly on the same date, time and place, the accused caused simple hurt to Bhagwan Singh by driving the above

said vehicle so rash and negligently as to endanger human life or personal safety of others and thereby committed an offence punishable under Sections 337 IPC

Thirdly, on the same date, time and place, the accused caused grievous hurt to Bhagwan Singh by driving the above said vehicle so rash and negligently as to endanger human life or personal safety of others and thereby committed an offence punishable under Sections 338 IPC

Lastly, on the same date, time and place, the accused committed mischief by causing damage to the Motorcycle bearing no. PB03T 3585 valued more than Rs. 50/- and thereby committed an offence punishable under Sections 427 IPC

9. As already stated, the present case against the accused was registered on the strength of a statement made by Gurwinder Singh. Gurwinder Singh, while appearing as PW1, PW2-Bhagwan Singh (injured) and PW3 Pritam Singh did not support the prosecution version, and resiled from the statement allegedly made by them to the police and on the requested of Ld. APP for the State, PW 1 to PW3 declared hostile.

10. PW4 Statement of ASI Pala Singh No. 592/Mansa now posted at PS Joga, stated in Court on oath that on dated 22.07.2021 he was posted as IO at PS Boha. An intimation regarding the Bhagwan Singh son of Hamir Singh resident of Mal Singh wala was received from, SDH Budhlada. He went to the hospital and moved application Ex.P1. The

doctor declared the injured as referred to Rajinder Hospital Patiala. Later on he received information that the injured at admitted at Max Hospital, Bathinda. He went to the hospital and moved application Ex.P2. The doctor declared the injured as referred for plastic surgery. When he was coming out of the Hospital, then Gurwinder Singh son of Jagpal Singh met him. He suffered statement mark-A before him which was witnessed by Pritam Singh. He conducted police proceedings Ex.P3 and send the same police station through PHG Mithu Singh. Copy of FIR is Ex P4. Thereafter, he along-with Gurwinder Singh went to the police of occurrence and prepared rough site plan Ex.P5 at is the demarcation. He recorded statements of relevant witnesses at the spot. On 28.07.2021 accused Baljit singh was arrested vide memo Ex.P6 in presence of HC Amarjit Singh and victim Pritam Singh. His personnel search was conducted vide memo Ex.P7. The motorcycle bearing no.PB-03T-3585 alongwith the RC belonging to Pritam Singh was taken into possession vide memo Ex P8. The offending tractor trolley was taken into possession bearing no.PB-03bb-4855 was taken into police possession vide memo Ex.P9. Memos were witnessed by HC Amarjit Singh and Pritam Singh. During the investigation the mechanical examiner report is Exp10 and Ex.P11 were obtained from the expert. During the investigation he look into police possession the relevant medical record. The attested copy of RC of motorcycle is Ex.P12. The copy of MLR in the name of Bhagwan Singh is Ex.P13. The Bed Head Tickets in the name of Bhagwan Singh from SDH Budhlada is Ex.P14. The medical record from Max Hospital,

Amarjeet Singh
JMIC/Buhlada (PB0480)

Bathinda is Ex.P15. The medical record of cosmo hospital, Bathinda is Ex.P16, The RTA report given by Bathinda is Ex.P17 and RTA report of vehicle no. PB- 03bb-4855 is Ex.P18. During the investigation he recorded statement of relevant witnesses U/s161 Cr.PC. On 05.10.2021 he moved an application Ex P19 before SMO Budhlada and the injury report given by the doctor is Ex. P20, he identified the accused present in the Court today. He has seen case property MO1 i.e. motorcycle bearing No. PB-03T-3885 and MO2 i.e. offending tractor along-with trolley bearing No. PB-03BB-4885 in the Court.

11. The learned APP for the State argued that all the witnesses of the prosecution have fully proved the case of the prosecution as all the relevant documents available on file have been fully proved by the concerned official/witnesses of the prosecution, and therefore proved the guilt of the accused.

12. On the other hand, the learned Defence Counsel argued that prosecution failed to prove its case beyond shadow of reasonable doubt. He further argued that onus was upon the prosecution to prove the case beyond reasonable doubt, regarding the identity of the accused, but prosecution miserably failed to prove the same as there is nothing on the judicial file which points out that it was the accused who was driving the offending vehicle. Therefore, prayed for acquittal of the accused.

POINTS-1 TO 4

13. I have heard submissions of the learned APP for the State and the learned Defence Counsel, and have examined the material available on

Amarjeet Singh
JMIC/Budhlada (PB0480)

record with due care and circumspection. As already stated, the present case against the accused persons was registered on the strength of a statement made by PW1- Gurwinder Singh- Complainant. However, PW1 Gurwinder Singh- Complainant, PW2-Bhagwan Singh (injured) and PW3 Pritam Singh, did not identify the accused person present in the court nor support the story of prosecution. The learned APP for the State requested the Court for declaring all the above-said witnesses as hostile. The request was allowed. Thereafter, the learned APP for the State put entire story of the prosecution to PW1 Gurwinder Singh- Complainant, and PW2-Bhagwan Singh (injured) and PW3 Pritam Singh, who totally denied the story of the prosecution.

14. No doubt, statement of a hostile witness should not be thrown over board and so much part of the statement of a hostile witness which is consistent with the prosecution story can still be taken help to convict the accused person and the evidence of a hostile witness would not be totally rejected if submitted in favour of the prosecution or accused but it can be subject to close scrutiny and that portion of the evidence, which is consistent with the case of the prosecution or defence may be accepted. I have gone through the statement of PW1 Gurwinder Singh- Complainant, and PW2-Bhagwan Singh (injured) and PW3 Pritam Singh, from that angle also, however, I find the same totally worthless. After being declared hostile, PW1 Gurwinder Singh- Complainant, and PW2-Bhagwan Singh (injured) and PW3 Pritam Singh, were allowed to be cross-examined by the APP for State. Even after cross-examination of

these witness by the learned APP for the State, nothing favourable to the prosecution came out. In these circumstances, the deposition of official witness is of little importance.

15. Further, there are two ingredients for constituting offence under Section 279, 337, 338 of IPC i.e. identity of the accused and rash and negligent act of the accused. In the present case, as above-said, the identity of the accused has never been proved by the prosecution, therefore, this first and vital essential of Section 279, 337, 338 of IPC has not been proved by the prosecution. Meaning thereby, if the first ingredient of identity of the accused is not proved by the prosecution, then there is no need to proceed further and to check rash and negligent act of the accused. In other words, the prosecution failed to establish the identity of the accused, resultantly failed to prove the story of the prosecution beyond reasonable doubt.

16. Needless to say that the prosecution is to prove case against the accused beyond all shadows of reasonable doubts. In *State of Haryana Vs. Shamsher Singh, reported in 2006 (3) RCR (Criminal) 346 (P&H) (DB)*, the Hon'ble Punjab & Haryana High Court held that in a criminal trial, prosecution is cast with very serious duty to bring on record quality evidence in order to substantiate its allegation against an accused person. It cannot seek conviction of any person without bringing substantial evidence on record as it becomes extremely difficult for the Court to pronounce a person guilty in the absence of fool-proof evidence nailing guilt by the accused person. Specially in present case, the

complainant and the eye witness have not supported the case of prosecution. With this, the case of the prosecution fell down on the point of identity of the accused as the same has not been proved by the prosecution beyond reasonable doubt. Hence, the case of the prosecution fell down on its own. There remains nothing against the present accused.

17. In view of the discussion made here-in-above, I acquit the accused person of the charges framed against him. His bail bonds and surety bonds keep intact for another six months in compliance of Section 437-A of Cr.P.C to ensure the presence of the accused person in filing of appeal / revision, as the case may be, in case any appeal or revision is preferred by the State.

18. Case property, if any, be disposed of, under rules after awaiting the result of appeal / revision, as the case may be, if any. File be consigned to the Judicial Record Room, Budhlada, after due compliance.

Pronounced In Open Court:
03rd day of February, 2023
(Shelly)
(*Directly Dictated*)

(Amarjeet Singh) **PB0480**
Judicial Magistrate 1st Class,
Budhlada.

