

**IN THE COURT OF SH. SERVESH SINGH, PCS, JUDICIAL
MAGISTRATE IST CLASS, SHAHEED BHAGAT SINGH NAGAR
(UID NO. PB0534) (AT NAWANSHAHR)**

DOI: 30.08.2019

CIS No.CHI-237-2019

CNR No. PBSB03-001786-2019

Decided on: 21.11.2023

State

Vs.

**Gurmukh Singh, aged about 43 years, s/o Ajit Singh, r/o near Dargah
Baba Gareeb Dass, Village Khanpur, PS Bias, District Amritsar.**

.....Accused

FIR No.54 Dated

23.06.2019

Under Sections: 279, 304-A, 427 IPC

Police Station: Nawanshahar, SBS, Nagar

Present: Ms. Amandeep Kaur, Ld. APP for the State.
Accused on bail with counsel Sh. Rajan Sareen, Advocate.
Sh. R.S. Sarhala, Advocate for complainant.

J U D G M E N T

1. Aforesaid accused has been sent to face trial by the Officer Incharge of Police Station Sadar Nawanshahar, District SBS Nagar for having committing offence under Sections **279, 304-A, 427** of Indian Penal Code, (hereinafter referred as IPC).

2. Briefly, the prosecution case is that, on 23.06.2019, IO/ASI Kulwant Singh along with other Police officials was present at Bus Stop, Jadla in connection with checking of bad elements and he laid a naka. Meanwhile, one Sukhdev Singh @ Punnu approached IO and got recorded his statement to the effect that he is an agriculturist and on that day i.e.

23.06.2019, complainant's nephew Manohar Lal @ Bablu and his mother Simro, were travelling on the motorcycle make Hero Honda, bearing No.PB-20-A-4263. That they were returning from Mukundpur after attending Bhog ceremony of their relative.

3. Also, that complainant was on his motorcycle make Boxer bearing No.PB-32-C-3211 and he was approximately 40 yards behind from the motorcycle of his nephew. At about 4:00 PM, when they reached at intersection of Jadli, complainant saw one tipper of Singla Transport Company, bearing No.PB-07-T-0055, which was going ahead of him at a very high speed, driven in a rash and negligent manner, without honking struck against the motorcycle of his nephew. The tipper dragged the motorcycle of his nephew approximately 20 yards and then ran over both of them. The driver of the tipper alighted and approached the complainant and told him that he will help him out, but when they carefully observed both the injured, they found them dead on the spot. Upon this, truck driver fled away from the spot. Thus, FIR under Sections 279, 304-A and 427 of IPC was registered. Police proceedings were initiated and on 25.06.2019, IO arrested accused Gurmukh Singh. Thereafter, the challan was presented in the Court.

4. On appearance of the accused in court, copies of documents were supplied to the accused free of costs as envisaged under section 207 Cr.PC.

5. Finding a prima-facie case for offences punishable under sections 279, 304-A of IPC having been made out against the accused,

charge was framed against the accused accordingly. The accused pleaded not guilty to the charge and claimed trial.

PROSECUTION EVIDENCE:-

6. In order to prove its case, the prosecution got examined **Jaswinder Kumar** as PW1, **IO/ASI Kulwant Singh** as PW1, **S/Ct. Mukhtiar Singh** as PW3, **ASI Amarjit Singh** as PW4, **Dr. Baljit Kaur** as PW5 and **Sukhdev Singh (complainant)** as PW6. And further relied upon following documents:-

<i>Ex.P1</i>	<i>: Jaswinder Kumar</i>
<i>Ex.P2</i>	<i>: Office Verification Report</i>
<i>Ex.P3</i>	<i>: Screen Report</i>
<i>Ex.P1</i>	<i>: Statement of complainant</i>
<i>Ex.P2</i>	<i>: Ruqa</i>
<i>Ex.P3</i>	<i>: FIR</i>
<i>Ex.P4</i>	<i>: Endorsement on Ruqa</i>
<i>Ex.P5</i>	<i>: Rought Site Plan</i>
<i>Ex.P6</i>	<i>: Police Possession Memo of vehicles</i>
<i>Ex.P7</i>	<i>: Arrest-cum-intimation Memo</i>
<i>Ex.P8</i>	<i>: Personal Search Memo</i>
<i>Ex.PB</i>	<i>: Police Possession Memo of Photographs</i>
<i>Ex.P9</i>	<i>: Police Possession Memo of driving licence</i>
<i>Ex.PW3/A</i>	<i>: Report</i>
<i>Ex.PW4/A</i>	<i>: Form No.25-35</i>
<i>Ex.PW5/A &</i>	<i>: Affidavits</i>
<i>Ex.PW5/B</i>	
<i>Ex.PW5/C</i>	<i>: PMR of Manohar Singh</i>

Ex.PW5/D : PMR of Simro

7. Thereafter, prosecution evidence was closed by order and the case was fixed for recording the statement of accused u/s 313 of Cr.P.C.

STATEMENT OF ACCUSED 313 of Cr.P.C.:-

8. After the closure of prosecution evidence, statement of accused under Section 313 Cr.P.C. was recorded, in which, all the incriminating evidence was put to him, but he denied the same and pleaded his false implication. Accused did not lead any evidence in his defence and defence evidence was closed by order.

ARGUMENTS:-

9. Learned APP for the State while arguing on the lines of the case of prosecution vehemently contended that the substance of charge against the accused stands duly proved on the record from the testimony of other PWs, whose statements corroborate the entire prosecution story and are also quite consistent to each other. Further, argued that the accused is liable to be committed and be punished according to law.

10. On the other hand, learned counsel of accused submitted that the prosecution has failed to prove the case against the accused beyond the shadow of reasonable doubt because in the present case PW6 Sukhdev Singh (complainant) has not supported the case of the prosecution and he was declared hostile. Hence, prosecution has failed to prove the case against the accused beyond the shadow of reasonable doubt and prayed that the accused be acquitted.

POINT OF DETERMINATION:

11. The following **point for determination** has arisen in this case:-

“Whether on 23.06.2019 accused Gurmukh Singh was driving a tipper in the area of Village Jadla, PS Sadar Nawanshahr bearing No.PB-07-T-0055 in such a rash and negligent manner so as to endanger human life and personal safety of the others and while doing so he caused death of Simro and Manohar Lal @ Bablu by causing accident and committed an offence under Sections 279 and 304-A of IPC?”

FINDINGS:-

12. I have heard learned APP and learned defence counsel and perused the record on file.

13. Prosecution got examined **Jaswinder Kumar (clerk, SDM Office)** as PW1, who brought the summoned record with regard to motorcycle bearing No.PB-20-A-4263 make Hero Honda and proved that above said vehicle is registered in the name of Manohar Singh s/o Sadhu Singh. PW1 also proved application i.e. Ex.P1, Office Verification Report i.e. Ex.P2 and Screen Report i.e. Ex.P3. During cross-examination of PW1, he stood firm qua his testimony.

14. Further prosecution got examined, **IO/ASI Kulwant Singh** as PW2 and **ASI Amarjit Singh** as PW4, they deposed on the lines of challan which is not repeated here for the sake of brevity. They also proved documents regarding the investigation conducted by them in this case, and

proved documents, statement i.e. Ex.P1, ruqa i.e. Ex.P2, FIR i.e. Ex.P3, endorsement on ruqa i.e. Ex.P4, rough site plan i.e. Ex.P5, Police possession memo of vehicles i.e. Ex.P6, arrest memo i.e. Ex.P7, personal search memo i.e. Ex.P8, police possession memo of photographs i.e. Ex.PB, Police possession memo i.e. Ex.P9, Form No.25-35 i.e. Ex.PW4/A. During cross-examination of PW4, he stood firm qua his testimony, whereas PW2 did not turn up again for his further examination-in-chief despite bound down, so his testimony would not be considered in the present case.

15. **PW3 S/Ct. Mukhtiar Singh**, who deposed and proved mechanical test report of both the vehicles as Ex.PW3/A. During cross-examination of PW3, he stood firm qua his testimony.

16. Further, **PW5 Dr. Baljit Kaur**, who deposed and proved the medical evidence vide their postmortem reports i.e. Ex.PW5/C and Ex.PW5/D respectively. PW5 opined that the cause of death is neurogenic and hemorrhagic shock due to injuries. During cross-examination of PW6 nothing could be extracted out of her mouth to discredit her testimony.

17. Further, **PW6 Sukhdev Singh**, who is the complainant of this case, while appearing in the witness box has deposed in his examination-in-chief that *“on 23.06.2023, I and my cousin Manohar Lal and my mother were returning from the bhog ceremony. I was on my motor-cycle Boxer and my cousin and my mother were on the motor-cycle bearing No.PB-20-A-4263. I was at the distance of 40 yards behind the motor-cycle of my cousin. When, the motor-cycle of my cousin was near to the intersection of Jadli, one tipper bearing No.PB-07-T-0055 came there whose unidentified driver was in a very rash and negligent manner struck its vehicle against the*

motor-cycle in fact run over the vehicle and dragged the person of my cousin and my mother for the distance of 20 yards ahead and both the persons died at the spot. The person today present in the Court is not that person who caused accident and I never suffered any statement against any person”.

18. In this way, PW6 Sukhdev Singh has not supported the case of the prosecution and he was declared hostile at the request of learned APP for the State and the APP was allowed to cross-examine the prosecution witness but during his cross-examination, nothing fruitful could be elicited from his mouth in favour of prosecution. However, the said witness was not cross-examined by the learned defence counsel despite given opportunity and his cross-examination was treated as nil.

19. As this juncture, court is of the opinion that the offences involved in the present FIR relates to Sections 279 and 304-A of IPC. In an accident case, two things are required to be proved by the prosecution beyond reasonable doubt. First, is the identity of the accused as driver of the offending vehicle, and secondly, that he was driving the offending vehicle in a manner which was so rash and negligent, due to which, the accident was caused. The complainant i.e. Sukhdev Singh is resiling from his previous statement. Therefore, above said witness was declared hostile, and the learned APP was allowed to cross-examine him, but nothing useful could be extracted by the learned APP for the State during his cross-examination. Thus, these discrepancies create a serious doubt in the prosecution story. It is a settled law that the prosecution must stand on its own legs and prove the case beyond any reasonable doubt, and whenever there is a reasonable

doubt, the same must go in favour of the accused. Moreover, in present case the prosecution has miserably failed to establish its case. Hence point of determination stands decided in negative.

CONCLUSION:-

20. Hence, in view of the above stated discussion court is of the confirmed opinion that, no charge under Sections 279 and 304-A of IPC is proved out against the accused Gurmukh Singh. Hence, Gurmukh Singh is liable to be acquitted in the present case. **Accordingly, accused Gurmukh Singh is ordered to be acquitted from the charges framed against him in the present case i.e. under Sections 279 and 304-A of IPC.** Bail bonds and surety bonds of the accused stands discharged from liability. File be consigned to record room.

Pronounced in open Court
21.11.2023

Vishal Vardhan, Stenographer Gr.III

(Serves Singh)
Judicial Magistrate First Class
Shaheed Bhagat Singh Nagar.
(UID No.PB0534)