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CIS No.CHI-114-2016

State Vs. Gurcharanjeet Singh.
CNR NO.PBLDD1000256-2016

PBLDD10002562016



Presented on : 11-07-2016
Registered on : 11-07-2016
Decided on : 07-02-2025
Duration : 8 years, 6 months, 27 days

**IN THE COURT OF MS. VAKEELAN BIBI, PCS,
JUDICIAL MAGISTRATE 1ST CLASS, PAYAL.
UID CODE PB-0649.**

CIS NO.CHI/114/2016	
CNR No.PBLDD1000256-2016	
Date of Decision: 07.02.2025.	
Complainant	STATE
Represented By	Sh. Dhanesh Kumar, Ld.APP for State.
Accused on bail	Gurcharanjit Singh @ Baba son of Gurdas Singh resident of House no. 179, Near Gurudwara Rerru Sahib, Mohalla Basant Nagar Lohara, Police Station Dhaba, District Ludhiana.
Represented By	Ld. Counsel Sh. A.S. Gill, Advocate for accused.

FIR No. 48 of 17.04.2016
U/Section:279,304-A,427 IPC.
Police Station Doraha.

Present: Sh.Dhanesh Kumar , Ld. APP for the State.
Accused on bail with Ld. Counsel Sh. A.S. Gill,
Advocate

JUDGMENT-

1. The above named accused has been sent up by the officer Incharge of Police Station Doraha to face the trial under Section 279, 304-A, 427 of IPC.

2. In nutshell, the prosecution story is that on 17.4.2016, ASI Harbans Singh alongwith other police officials was present near to Bhangu Hospital, Doraha in connection with patrolling and Davinder Singh son of Karnail Singh came present there. He recorded his statement that on 16.04.2016, he went to Sahnewal for his personal work. After completion of his said work, he met his cousin Jasvir Singh son of Lachman Singh at Tibba bridge and from there they both proceeded towards their home on their separate vehicles. His cousin Jasvir Singh was going before him on his scooter and he was about 8-12 Karams far from his cousin. At about 09.30PM, when they reached near to Dugri bridge, then a scooter came in a rash and negligent manner with a high speed, from their behind. After overtaking him, the scooter driver struck his scooter into the scooter of his cousin Jasvir Singh, due to which Jasvir Singh fell down on the earth. The driver of offending scooter alongwith lady accompanied by him were also fell down. Due to severe head injury his cousin lost his senses at the spot. The driver of scooter disclosed name of his village as Lahora and was going

to Rajgarh to attend a wedding. Thereafter, when he was looking after his cousin the said driver alongwith lady fled away from the spot. Thereafter, he got admitted his cousin/injured in Sidhu Hospital, Doraha from where injured was referred to Ludhiana. At this, they admitted injured at Satguru Jagjit Singh Hospital, Ludhiana, where during treatment, he passed away. The alleged accident took place due to rash and negligent driving of driver of scooter. At this, present FIR registered. Statement under Section 175 Cr.P.C. was recorded. Form no. 25.35(1) was fulfilled. Thereafter, spot was inspected and site plan prepared. Dead body was handed over to the family of deceased after is post mortem. Vehicle of occurrence were taken into police possession. Statements of the witnesses under Section 161 Cr.P.C. were recorded. On 30.04.2016, vehicle of occurrence were mechanically examined and reports received. On 27.5.2016, accused Gurcharanjeet Singh son of Gurdass Singh resident of Lahora was arrested. Upon completion of investigation, challan was presented against the accused.

3. After presentation of challan, accused appeared before the court and copy of challan and other documents attached with it were supplied to him free of costs, as per Section 207 Cr. P.C.

4. Thereafter, finding a prima facie case, the court of Ld.SDJM, Payal framed the charge under Section 304-A of IPC against the accused, to which he pleaded not guilty and claimed the trial. Following this, prosecution was called to lead evidence.

5. In order to substantiate its allegations, prosecution examined PW1 Davinder Singh complainant who deposed that on 16.04.2016 at about 09.30 PM he was coming from Sahnewal on his motorcycle bearing no. PB-10-5319 towards his village Raul. When he reached near the Tibba Bridge he met with his cousin Jasvir Singh who was on his scooter. Thereafter they both moved towards the village Raul on their vehicles. Jasvir Singh on his scooter was ahead of him approximately 8 to 10 Karam. When they reached near the Dugri Bridge then a scooter from behind them came in a rash and negligent manner with a high speed. After overtaking him the scooter driver struck his scooter into the scooter of his cousin Jasvir Singh, due to which Jasvir Singh fell down on the earth. Jasvir Singh received injuries on his head. He reached on the spot immediately then the accused along with the lady told him that they are in a hurry to attend a marriage ceremony and they further told him that they will pay the money of the hospital and asked him to admit the injured in a hospital. He took Jasvir Singh to Sidhu Hospital for his treatment. The doctors of the Sidhu Hospital referred his cousin to Apollo Hospital, Ludhiana due to his serious condition. On the next day in the early morning his cousin died in the Apollo Hospital. They went to inform the matter to the police. Police recorded his statement Ex.PA bearing his signature Ex.PA/1. He further deposed that police took the vehicle of the accused i.e. scooter into police possession vide memo Ex.PB. Police handed over the dead body of Jasvir Singh vide receipt Ex.PC to him.

Police apprehended the accused on 27.5.2016 on his identification vide memo Ex.PD.

Secondly, prosecution examined PW2 Manjit Singh who stated that he is an agriculturist. Jasvir Singh son of Lachman Singh was his cousin and he has died on 17.4.2016 in a accident and he identified his dead body at Hospital Satguru Jagjit Singh Hospital, Ludhiana. In this regard, his statement was recorded by Investigating Officer, which is Ex.PW2/A and identified his signatures on the statement, which is Ex.PW2/B.

Thirdly, prosecution examined PW3 ASI Lakhvir Singh ,Mechanic who stated that on 30.04.2016 Scooter bearing no. PB-13C-4952 and scooter bearing no. PB-10-AE-0295 were checked and examined by him on the instructions of ASI Harbans Singh and he prepared reports Ex.PW3/A and Ex.PW3/B.

Fourthly, prosecution examined PW4 ASI Harbans Singh IO under section 299 Cr.PC, who stated that on 17.4.2016 he alongwith police party was present near Bhangu Hospital in connection with patrolling. Where complainant of the present case namely Davinder Singh son of Karnail Singh came present and got recorded his statement Ex.PA. Statement of the complainant is read over to him and after verifying the contents correct, complainant put his signature Ex.PA/1. He made his endorsement Ex.P4/1. On the basis of complainant statement, he scribed

ruqa Ex.P4/2 and sent the same through C. Gurpreet Singh for the registration of case. FIR Ex.P4/3 is registered by S.I. Davinder Singh, whose signature he identified. Thereafter, he alongwith police party and complainant reached at SPS Hospital Ludhiana where he prepared the inquest report Ex.P4/4 regarding the death of Jasvir Singh and recorded statement of Manjit Singh and Daljit Singh under Section 175 Cr.P.C. Statements are Ex.PW2/A and Ex.P4/5. After collecting the body from SPS Hospital. He handed over the same to HC Kabil Singh and moved an application Ex.P4/6 before SMO, CH, Ludhiana for conducting the post mortem of deceased Jasvir Singh. Thereafter, on the same day he alongwith police party and complainant reached at the place of occurrence where he prepared the rough site plan Ex.P4/7 and took into possession the accidental vehicle i.e. scooter Bajaj Chetak bearing no. PB-10AE-0295 without document and another Scooter Bajaj Chetak bearing no. PB13C4952 alongwith RC vide memo Ex.PB. On their return to Police Station, he handed over the case property to MMHC. On the same day, after the post mortem dead body of deceased Jasvir Singh handed over to the relatives vide receipt Ex.PC. On 30.4.2016, HC Lakhvir Singh conducted the mechanical examination of accidental vehicles vide report Ex.PW3/A and Ex.PW3/B. Thereafter, on 27.5.12016, accused Gurcharanjit Singh was produced before him. Where complainant of the present case also came present and identified the accused. He prepared the identification memo Ex.PD. He arrested the accused vide arrest memo

Ex.P4/8, conducted his personal search vide memo Ex.P4/9 and prepared his intimation of arrest vide memo Ex.P4/10. During investigation, he verified ownership of accidental vehicles form DTO office and recorded statement of witnesses. After completion of investigation challan was prepared by Inspector Harjinder Singh, whose signature he identified. However, it is pertinent to mention here that PW 4 did not come present for his cross-examination, accordingly, testimony of PW 4 has no value in the eyes of law as said witness did not pass through the test of cross-examination.

Fifthly, prosecution examined PW5 Aman Kumar, DEO, RTO, Ludhiana who brought the original manual register of RTO Ludhiana in which record regarding vehicle bearing registration no. PB-10-AE-0295 was mentioned. The certified copy of the same is Ex.P5/A. As per record above said vehicle is registered in the name of Vijay Kumar son of Prem Chand, resident of House no. 841, Street NO. 6, Baldev Nagar, Ludhiana.

Lastly, prosecution examined PW6 attesting witness HC Taranvir Singh No. 362/Khanna, Posted at Police Station Doraha who stated that on 27.5.2016 he was posted at Police Station Doraha. On that day accused Gurcharanjit Singh was produced before Investigating Officer. Complainant of the present case also came present and identified the accused. IO prepared the identification memo Ex.PD and arrested the

accused vide arrest memo Ex.P4/8. He stated that accused was personally searched vide memo Ex.P4/9 and intimation of arrest of accused vide memo Ex.P4/10 was prepared.

No other witness examined by prosecution and prosecution evidence was closed.

6. Proceeding further with the case, all the incriminating circumstances appearing in the prosecution evidence were put to the accused in his statement under Section 313 Cr.P.C to which he pleaded that he is innocent and has been falsely implicated in this case.

7. On his turn, no witness examined by accused in his defence. After availing sufficient time for defence, accused closed his defence evidence.

8. Arguments of Learned APP for the State and Learned defence counsel heard and case file perused minutely with their able assistance.

9. The learned APP for State argued that prosecution proved the present case against accused by leading oral as well as documentary evidence on record. Identification of accused has duly proved and link evidence also established. Therefore prosecution successfully discharged the burden to prove the case against accused that he caused death of Jasvir Singh by rash and negligent accident. Accordingly, Learned APP after

conclusion of his argument requested to convict the accused in the present case.

10. Per contra, learned defence counsel refuted the submissions of learned APP and argued that accused has been falsely implicated in the present case. No rash and negligent conduct of accused has been established by prosecution nor identification of accused as real culprit has been proved by prosecution. He submitted that no link of accused with alleged occurrence has been proved by prosecution and prosecution also failed to examine any independent witness in order to corroborate their version and said lacuna in the prosecution evidence discarded the prosecution story. Thereafter, learned defence counsel prayed for acquittal of the accused.

11. From the facts, circumstances and arguments of both the learned counsels, questions for determination is as follows,

Whether on 16.04.2016 at about 09.30 P.M. accused caused death of Jasvir Singh while driving his scooter bearing number PB10AE0295 in rash and negligent manner and thereby committed an offence under Section 304A IPC?

Discussion and findings on questions of determination-

12. The burden to prove prosecution story and bring on record the alleged guilt of accused, was upon prosecution. The accused in the present

case has been charged for committing an offence under Section 304-A IPC. At the very outset it is pertinent to observe here that accused was not arrested at the occurrence spot and therefore, his identification was material to be established by prosecution. In order to establish the identification of accused, prosecution examined PW1 Davinder Singh complainant only. No doubt PW1 stated in his statement Ex.PA and his testimony before the court that he saw the accused at the spot and also identify him before the police vide memo Ex.PD but except the sole testimony of PW1 complainant there is no other cogent evidence available on record to establish the connection of accused with alleged accident and alleged offending vehicle. The said offending vehicle bearing no. PB 10 AE 0295 was taken into police possession from accidental spot vide memo Ex.PB proved by PW1 complainant. On the contrary, PW PW5 Aman Kumar, DEO, RTO, Ludhiana proved vide Ex.P5/A that said vehicle is registered in the name of Vijay Kumar son of Prem Chand, resident of House no. 841, Street NO. 6, Baldev Nagar, Ludhiana. No connection of accused with aforesaid offending vehicle has been established. There is no allegation against the accused that he is owner of aforesaid offending vehicle or purchased the same from its original owner. Prosecution also failed to examine aforesaid Vijay Kumar in order to establish link between accused and offending vehicle. The said lacuna raised suspicion over prosecution story that accused was driving the said scooter at the time of alleged accident which resulted into death of Jasvir Singh.

13. Further no independent witness has been examined by prosecution despite the fact that alleged accident took place at public spot and as per testimony of PW1 complainant passerby were gathered at the spot who helped him to inform about the alleged accident at his home. No specific or particular reason has been given by prosecution that why any independent witness has not been joined into investigation in order to corroborate the version of complainant. In the present case accused had not been nominated by his name rather FIR Ex.4/3 was registered on the registration number of offending vehicle. It is already above discussed that prosecution miserably failed to establish link of said vehicle with the accused. Moreover, as per prosecution story accused disclosed name of his village to the complainant at the spot but it is nowhere mentioned that complainant asked name of accused or accused did not disclose the same despite on asking. This court failed to understand that when accused met the complainant at the spot, disclosed about his residence and also place where he was going than why name of the accused was not asked and why accused failed to mention the same before disclosing aforesaid facts. The said discrepancies in the prosecution story raised doubt over identity of accused as real culprit. Accused also pleaded false implication. Accused was also not apprehended at the spot. How police came to know about accused has not been brought on record. IO PW4 did not come present for his cross examination to prove credibility and authenticity of investigation in the present case. Therefore, mere identification of accused by

complainant, who himself is interested witness, is not enough to conclude that accused caused alleged accident as want of corroborative evidence raised dent in the prosecution story.

14. It is a cardinal principle of criminal jurisprudence that prosecution has to prove its case beyond reasonable doubts by leading reliable, cogent and convincing evidence. Further, in order to successfully bring home the guilt of the accused, prosecution has to stand on its own legs and it cannot derive any benefits whatsoever from the weakness, if any, in the defence of the accused. Accused is entitled to the benefit of every reasonable doubt in the prosecution story and any such doubt in the prosecution case entitles the accused to acquittal. In the present case, as per above discussion, prosecution miserably failed to bring home the alleged guilt of accused and failed to discharge the burden so placed upon it. Resultantly, the questions of determination is hereby decided in favor of accused and against the prosecution. Therefore, in view of discussion supra, this court is of the considered opinion that prosecution has failed to prove the present case beyond reasonable doubt against the accused and the accused deserves the benefit of doubt and accordingly, accused Gurcharanjeet Singh @ Baba is acquitted of the charges framed against him. Requisite bonds under Section 481 BNSS, 2023 furnished by accused which are accepted and attested and shall be effective till the filing of appeal, if any, as per rules. Case property, if any, be dealt with under rules, after the

expiry of period of appeal, as the case may be. Original RC's be returned to the concerned persons against its certified copy and proper receipt, after the expiry of period of appeal, if any, as per rules. File be consigned to the record room after due compliance.

Pronounced in the Open Court.

Dated: 07.02.2025.

“Poonam Stenographer Gr.II”

(Vakeelan Bibi)PCS

Judicial Magistrate Ist Class

Payal. (UID No. PB0649)

