

THE COURT OF MS. SHIVANGI SANGAR, JUDICIAL
MAGISTRATE IST CLASS, MALOUT.

(Unique Identification No.PB0392)

CIS No. CHI/118/2019
CNR No. PBSMB1-001095-2019
Date of Judgment: 10.01.2022

State Vs

Palwinder Singh son of Gurmail Singh, R/o Ward No. 21, Near Preeti
Cinema, Anupgarh, Rajasthan

FIR No. 113 dated 26.09.2018
Under Sections: 304-A, 279, 337, 338, 427 IPC
P.S. Sadar Malout

Present: APP for the State
Accused Palwinder Singh on bail with counsel
Sh. B.S. Saran Advocate.

JUDGMENT

The afore said accused has been sent up by the S.H.O., Police
Station Sadar Malout, to face trial under section 304-A, 279, 337, 338,
427 of IPC.

2. In brief, it is the case of the prosecution that on 23.09.2018,
one medical ruqa regarding admission of Sultan Ram was received from
B.S. Hospital, Malout at P.S. Sadar Malout and on receiving the same,
ASI Tejinder Singh along with police officials reached the Hospital where

it was informed that that the injured was referred to Bathinda Hospital. On 25.09.2018 HC Nishan Singh along with police officials went to Neuron Spine and Trauma Center, Bathinda to record the statement of Sultan Ram who was stated to be unfit by doctors. Thereafter Manpreet Singh son of Sultan Ram met police party and got recorded his separate statement to the effect that he is a labourer; that on 23.09.2018 at about 11:00 AM, he was standing near Maharaja Ranjeet Singh College, at Malout-Fazilka Link Road and his father Sultan Ram had gone towards Malout-Fazilka Link Road on his bicycle for some house hold work; that when his father was standing at the road side Malout-Fazilka Link Road to return to the house, one car Swift Dezire rashly and negligently came towards his father and hit the same with his father due to which his father received grievous injuries; that he noted the number of the car as RJ-14-CT-3846 and thereafter he came to know that the name of the driver of the said car is Palwinder Singh son of Gurmail Singh; that people gathered there and accused fled away from the spot; that after arranging the conveyance his father was got admitted in hospital. On the basis of this statement, FIR under Section 279, 337, 338, 427 IPC was registered. On 28.09.2018 it was informed that injured Sultan Ram died during treatment in Neuron Spine and Trauma Center, Bathinda. Thereafter section 304-A IPC was added. Investigation was initiated. Site plan of the alleged place of occurrence was prepared. Statements of witnesses were recorded. Accused

was arrested. After completion of other necessary formalities of the investigation, challan under sections under section 304-A, 279, 427 of IPC was prepared and presented against the accused in the court.

3. On presentation of the challan, copies of documents relied upon by the prosecution were supplied to the accused, free of cost, as required under section 207 Cr.P.C.

4. Finding prima facie case against the accused charges under sections 304-A, 279, 337, 338, 427 IPC was framed against the accused, to which accused pleaded not guilty and claimed trial.

5. To prove its case, the prosecution has examined PW1 complainant Manpreet Singh, PW2 Dr. Vikas Aggarwal, Medical Officer, PW3 Ganesh Ram, PW 4 C Rajwinder Singh, PW 5 Vikram Sharma, LDT, DTO, Sri Ganganagar, PW 6 Rjapal Chaudhary, Informatic Assistant, PW 7 HC Nishan Singh, IO, PW 8 Dr. Balkar Singh, B.S. Hospital Malout and PW 9 Dr. Ronil Koushal, Neuron Spine & Trauma Center, Bathinda. Ld. APP for the state has given up witnesses Birbal Ram and Brij Lal being won over by the accused and Pws C. Gurwinder Singh, ASI Tejinder Singh, SI/SHO Bikramjeet Singh and PHG Sawinder Singh, C-II Gurjeet Singh, C Kashmir Singh, C-II Nanddeep Singh and HC Khushwant Singh, being unnecessary and thereafter he closed the prosecution evidence vide his separate statement dated 25.11.2021.

6. After closure of prosecution evidence, statement of the accused u/s.313 Cr.P.C. was recorded wherein all the incriminating evidence appearing in prosecution evidence was put to them. The accused denied all the allegations against them and pleaded false implication in this case. To rebut the evidence of prosecution, accused opted to lead the defence evidence but did not examine any evidence and closed his defence evidence.

7. Ld.APP for the state argued that the statement of the formal witnesses, complainant (eye witnesses) is sufficient in proving the guilt of the accused person who is liable to be convicted.

8. On the other hand, Ld. defence counsel argued that the accused has been falsely implicated; that the no identification parade was ever conducted by the police to establish the identity of the accused. He further argued that it is very essential to conduct test identification parade before implicating the accused when as per the complainant himself, the accused was not seen or identified by him at the time of occurrence and the accused fled away from the spot. On these grounds request so made for acquittal of the accused persons.

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

1. Whether On 23.09.2018 at about 11:00 Am in the area of Link Road, near Maharaja Ranjeet Singh College, the above named accused drove his Swift Dezire Care bearing No. RJ-14-CT-3846 rashly and negligently and hit with Sultan Ram father of the complainant Manpreet Singh who was on his bicycle and caused his death and thereby committed an offence punishable under section 304-A IPC?

2. Whether on the same date, time and place the above named accused drove his above said car in rash and negligent manner so as to endanger of human life and public safety and and thereby committed an offence punishable under section 279 IPC?.

3. Whether on the same date, time and place the above named accused while driving his aforesaid car in above said manner stuck the same with above said bicycle and caused damages of value of more than Rs. 50/- and thereby committed an offence punishable under section 427 IPC?.

10. It is a settled proposition of law that unlike civil cases, in criminal cases the guilt of the accused is to be proved beyond shadow of reasonable doubt. In the present case, it was to be proved by the prosecution beyond reasonable doubt that it was the accused who was driving the offending vehicle on 23.09.2018, causing accident and death of deceased Sultan Ram. It was further to be proved that the vehicle was

being driven by the accused rashly and negligently on the said date. Thus, these two ingredients are acquired to be proved by the prosecution beyond shadow of reasonable doubt to bring home the guilt of the accused.

In order to prove its case, prosecution examined number of witnesses. The alleged eye witnesses were examined as PW 1 and PW 2 namely i.e. Manpreet Singh and Sonu, respectively. The said witnesses during their examination-in -chief supported the version of the prosecution and were cross-examined at length by the learned counsel for the accused. Pertinently PW 1 Manpreet Singh during his cross-examination to the suggestion put to him replied that it is correct that he has never seen the accused Palwinder Singh and that he came to know that it was the accused Palwinder Singh who was driving the offending vehicle from the people gathered at the spot on the alleged date. The other eye witness i.e. PW 2 Sonu during his cross-examination stated that he was not present at the time of the accident and that he heard about the accident and got recorded his statement before police. Apart from these two witnesses, the other witness examined by the prosecution were formal witnesses who were not allegedly present at the spot when accident took place. As such, PW 1 and PW 2 were the only star witnesses in the given case examined by the prosecution to prove the identity of the accused. However, evidently, as discussed above, the said two witnesses during their cross-examination failed to identify the accused person to be the

person who drove the offending vehicle on the alleged date of accident. The identification of the accused has thus remained unestablished on record.

Apart from the above said two witnesses, prosecution examined other important witness i.e. HC Nishan Singh IO as PW 7 who conducted the investigation in the given case and presented the final report before the court. The said witness was cross-examined at length by the learned defence counsel and by way of his cross-examination, it becomes clear that investigation was not properly conducted by the said witness as to the present case. As per the prosecution story, the accident in the given case took place at Malout-Abohar, G.T. Road. Whereas, the IO in his cross-examination admitted that he did not record the statement of any of the shop keepers whose shops are existing nearby the place of accident. The said witness further admitted that he did not inquire from the said shop keepers as to whether any CCTV Cameras are installed in their shops or not. The said witness during his cross-examination admitted that the bus stand is existing at Fazilka Road situated nearby the place of the accident where in routine several passengers are lined up in wait of the buses, but, as admitted by him, he did not record statement of any such passenger present at the time of accident. As such, evidently, from the statement of PW 7 HC Nishan Singh, IO, no special efforts seems to have been made by the IO to record the statement of the person

who witnessed the occurrence on the alleged date. Two witnesses cited as eye witness in the given case did not witness the alleged accident and no other witness from the spot was joined in the investigation by the IO who could have proved the identification of the accused. PW 1 and PW 2 have not seen the accident thus, they only possessed second hand information about the accident and, as such, their evidence being hearsay in nature does not carry much weight in proving the guilt of the accused.

Apart from proving the identification of the accused which the prosecution, as discussed above, failed to prove, it was incumbent upon the prosecution to also prove that the driver of the offending vehicle was driving the vehicle in rash and negligent manner, but, no such case has been established on record by the prosecution in the given case. PW 1 Manpreet Singh in his cross-examination admitted that on both side of the main road, the service roads were existing which has been separated from the main road by Grills/Guarders. PW 7 HC Nishan Singh, IO during his cross-examination also admitted that the service road/slip roads are existing on both side of the main road meant for use by bicycles or passer-by. He further admitted that deceased Sultan Ram was going on his bicycle on the main road and not on the service road. As such, in these circumstances the rashness and negligence on the part of the alleged driver of the vehicle could not be established by the prosecution as the

possibility of the negligence of the bicycle rider in the given circumstances, as discussed above, cannot be ruled out.

11. Thus, from the evidence on record, it did not come up that it was the accused person who caused the alleged accident leading to the death of the father of the complainant. The circumstances as discussed in preceding paras clearly casts shadow on the pursuit of the version of the prosecution. Prosecution has not been able to prove the offences against the accused beyond the reasonable doubts. Hence, accused Palwinder Singh stands acquitted of the charges framed against him. Accused stand discharged of bail bonds furnished by them and surety stand discharged of the surety bonds furnished by him. Case property be disposed of as per rules after the expiry of period of appeal / revision or subject to the decision of appeal or revision, if any. File be consigned to the Judicial record room, Malout, after due compliance.

Pronounced in open court.
Dated:10.01.2022

Shivangi Sangar
(Unique identification no. PB0392)
Judicial Magistrate Ist Class
Malout

(Dharmendra Steno Gr. II)