

IN THE COURT OF DAMANDEEP KAMAL HEERA, JUDICIAL
MAGISTRATE FIRST CLASS, GARSHANKAR

CNR No. PBHOB10006772017

CIS Registration No.136/2017

IPC Ch. No.46

Date of Instt.: 30.11.2017

Date of Decision:18.05.2018

State Vs. Jeet Singh aged about 44 years son of Sh. Ujjagar Singh resident of
village Fatehpur, Tehsil and District Panchkula (Haryana)

..... Accused

FIR No. : 115/04.09.2017
Under Section : 279/304A/427 of IPC
Police Station : Mahilpur, District Hoshiarpur.

Present: Ms. Shikha, Ld. APP for the State.
Accused on bail with counsel Sh. Amarinder Singh
Bhullar, Advocate

JUDGMENT:

1. The above named accused has been sent up by the SHO of Police Station Mahilpur, District Hoshiarpur to face trial for the offence punishable under sections 279/304A/427 of Indian Penal Code.

2. In brief, case of prosecution is that the present FIR was registered on the statement of complainant Harjinder Kumar son of Piara Ram r/o village Jiwanpur Jattan, P.S. Mahilpur, District Hoshiarpur to the effect that he is resident of above said address and is labourer by profession. On 03.09.2017 his father Piara Ram son of Tulsi Ram aged 62 years was labourer and was doing the work of timber and on that day he was coming back to his village through the main road. Chaman Lal was coming ahead of his father who gave phone call to his father that where he is but the phone was picked up by some passerby, who narrated about the accident of his father that some unknown vehicle/car which was going from Mahilpur to Saila side struck against his father while he was crossing the road. This information was received by complainant from Chaman

Lal. On this complainant alongwith Amarjit son of Chaman Lal came to the spot and saw that his father had received injuries on his mouth, head as well as on left leg and blood was oozing from his head. The body of father of the complainant was lying on the katcha road and his cycle was also damaged. Ambulance 108 was called and injured was taken to Civil Hospital Mahilpur from where injured was referred to Civil Hospital, Hoshiarpur but they took their father to Ivy Hospital, Hoshiarpur where doctor declared his father as dead. When the complainant went to spot and saw that one vehicle of Toyota company bearing registration No. CH-01-AY-0377 is fallen down. Complainant stated that he has firm belief that driver of Toyota car by driving his car rashly and negligently struck against the cycle of his father due to which his father died. Complainant in the end prayed for taking legal action against the accused. Post mortem of deceased was conducted. Accused was arrested. Site plan was prepared. Statement of witnesses were recorded. After conclusion of the investigation by the police, challan was presented in the Court.

3. On the presentation of challan in the Court, the copies of documents relied upon by the prosecution were supplied to the accused as per Section 207 Cr.P.C. free of costs.

4. From the perusal of documents on the record, prima-facie a case Under Section 279/304-A/427 of IPC was made out against the accused. Charge was framed to which accused pleaded not guilty and claimed trial.

5. To prove the guilt of the accused, the prosecution examined Harjinder Kumar complainant as PW-2 and Ajaib Singh other eye-witness as PW1. Thereafter Ld. APP for the State closed prosecution evidence .

6. Since the complainant and other eye witnesses had not stated anything incriminating in evidence against the accused, therefore recording of the statement of the accused under Sec.313 Cr.P.C was dispensed with.

7. Ld. APP for the State had contended that on 03.09.2017 at about 7.15 P.M in the area of village Badhoan, P.S. Mahilpur the accused drove his innova car bearing registration No. CH-01-AY-0377 in a rash and negligent manner on a public place, so as to endanger human life and personal safety of others. He further contended that accused while driving the above said vehicle in above said manner caused death of Piara Ram and also caused loss or damage to the cycle of the deceased. Ld.APP for the state has argued that since the accused committed the offence punishable under sections 279/304-A/427 of IPC, therefore, the accused is liable to be convicted and sentenced accordingly.

8. On the other hand, Ld. Defence counsel has argued that prosecution has miserably failed to prove its case and to establish the charge framed against the accused as the prosecution witnesses PW1/eye witness, PW2/complainant have themselves demolished the case of the prosecution. Learned counsel argued that PW1 and PW2 in their examination and cross-examination did not identify the accused present in the court and stated that they do not know who was driving the car and they cannot tell as to whether accused present in the court was the same person or not who had caused the accident. He further argued that PW1 and PW2 did not at all support the case of prosecution. He further stated that police had taken signatures of PW2 under pressure. He further argued that complainant and other eye-witness were declared hostile and even after availing the opportunity to cross examine eye witness/PW1, and PW2/complainant, nothing fruitful could be extracted from their mouth by the prosecution. He argued that when star witnesses of the present case have not supported the case of the prosecution, as such there arises no occasion to hold the accused guilty for the alleged offence. Ld. counsel further argued that in view of the statement of the PW1 and PW2, accused is liable to be given benefit of doubt.

9. Having heard learned APP, learned defence counsel and going

through the record I am of the considered opinion that the star witnesses of present case i.e. Complainant and eye witness themselves demolished the case of prosecution. PW1 and PW2 did not support the case of prosecution case by stating that they do not know who was driving the car and they cannot tell as to whether accused present in the court was the same person or not who had caused the accident. Even after availing the opportunity to cross examine PW1 and PW2, nothing fruitful could be extracted from their mouth by the prosecution. When star witnesses of the present case have not supported the case of the prosecution, there arises no occasion to hold the accused guilty for the alleged offence. As such the star witnesses of the prosecution by making such statement have seriously caused dent in the prosecution story. The statements of the eye witnesses recorded u/s 161 Cr.P.C during investigation cannot be taken as a conclusive piece of evidence for deciding this case. The witnesses are required to depose each and every aspect of the case in the court while appearing into the witness box. So, when the star witness of the prosecution story have not supported the case of prosecution, therefore, the alleged occurrence cannot be related with the accused. In view of statement of PW1 and PW2, accused is liable to be given the benefit of doubt. Hence, the accused Jeet Singh stands acquitted from the charges framed against him. File be consigned to record room after due compliance.

(Damandeep Kamal Heera)
Judl.Magistrate Ist Class,
Garhshankar.
(UID No.PB0416)

Pronounced
Date of order : 18.05.2018
Vikas, JW

Present: Ms. Shikha, Ld. APP for the State.
Accused on bail with counsel Sh. Amarinder Singh
Bhullar, Advocate

Two Pws present and examined. Ld. APP for the State closed prosecution evidence. Since there is nothing incriminating evidence against the accused, as such recording of statement of accused under section 313 CrPC is hereby dispensed with. Arguments heard. Vide my separate detailed judgment of even date, the accused stands acquitted from the charge framed against him. File be consigned to the Judicial Record Room, Garshankar after due compliance in all aspects.

(Damandeep Kamal Heera)
Judl.Magistrate Ist Class,
Garhshankar.
(UID No.PB0416)

Pronounced
Date of order : 18.05.2018
Vikas, JW