

PBGDA10011822024



Presented on : 15-02-2024  
Registered on : 15-02-2024  
Decided on : 08-10-2024  
Duration : 0 years, 7 months, 22 days

**IN THE COURT OF RAJINDER SINGH, JUDICIAL MAGISTRATE**  
**FIRST CLASS, BATALA**

|       |        |                                                                                                                          |
|-------|--------|--------------------------------------------------------------------------------------------------------------------------|
| State | Versus | Jaskaran Singh son of Sukhwinder Singh, resident of village Kangra, Police Station Sri Hargobindpur.<br><br>.....Accused |
|-------|--------|--------------------------------------------------------------------------------------------------------------------------|

**FIR No. 88 dated 25.07.2022**  
**Under Sections : 304-A, 279, 337, 338, 427 of IPC**  
**Police Station : Ghuman**

Present: Sh. Jagjivan Singh, Ld. APP for the State.  
Accused Jaskaran Singh on bail with counsel Sh. Paramjit Kumar, Advocate.

**JUDGMENT:-**

1. The above stated accused has been forwarded by the Officer Incharge, Police Station Ghuman before this court to face trial for the commission of offences punishable under Sections 304-A, 279, 337, 338, 427 of Indian Penal Code.
2. Brief facts of the prosecution story are that the present case was registered on basis of statement of Vijay Kumar son of Wasava Ram, resident of Panj Garahian, Police Station Rangar Nangal, who stated to the Police that he is working as Carpanter. On 25.07.2022, at about 10:45 AM, he alongwith his cousin Karan Kumar son of Maan Chand, resident of Panj Garahian, were going on a motorcycle and his younger brother Hardev Kumar was on his

separate motorcycle mark Platina of Black Colour and they were returning to their village Panj Garahian after completing some personal work from Ghuman. Hardev Singh was going ahead of complainant on his motorcycle and when he reached near T-Point, Mand Petrol Pump, one car of white colour, which was going towards Mehta Side, hit the motorcycle of brother of complainant from wrong side by driving the same at high speed and in careless manner. Due to hit, brother of complainant fell down on the ground and he suffered serious injuries and the motorcycle also got damaged. The driver of car fled away from the spot by leaving his car bearing No.PB06-AP-8655 Mark I-20 at the spot. Complainant alongwith his cousin arranged the vehicle and got admitted him to Civil Hospital, Ghuman, where doctor checked and declared him dead. Later on, complainant came to know the name of driver of above-said car as Jaskaran Singh son of Sukhwinder Singh, resident of Kangra, Police Station Sri Hargobindpur.

Investigation was started. Accused was joined into investigation. Site plan was prepared. Statements of witnesses were recorded and on completion of investigation, challan was presented against the present accused persons.

**3.** On appearance of accused, copies of challan and other documents relied upon by the prosecution was supplied to him free of costs as mandated under Sections 207 of Code of Criminal Procedure 1973 (Cr.P.C).

**4.** Finding a prima facie case, charge under Sections 304-A and 279 of IPC was framed against accused to which he pleaded not guilty and claimed trial.

5. In order to prove its case prosecution has examined complainant Vijay Kumar as Pw-1, retired ASI Balwinder Singh as Pw-2 and Karan Kumar eye-witness as Pw-3. As the material witnesses i.e. complainant Vijay Kumar and Karan Kumar, eye-witness have been declared hostile by Ld. APP for the State, therefore, no improvement can be made by examining other official witnesses, hence the prosecution evidence is closed by order.

6. After closing the prosecution evidence, statement of accused under Sections 313 of Code of Criminal Procedure was recorded and accused pleaded that he is innocent and has been falsely implicated in this case. He opted to lead no defence.

7. Ld. APP for the State has argued that although complainant Vijay Kumar and eye-witness Karan Kumar examined by the prosecution have been declared hostile but on the basis of testimony of Pw-2 retired ASI Balwinder Singh and other relevant documents on file, accused can be convicted. On the other hand, Ld. defence counsel argued that although the prosecution examined witnesses to prove it's case, however, complainant and eye-witness have not stated against the accused. Hence, case of prosecution remained unproved and prayed for acquittal of accused.

8. I have heard the Ld. APP for the State and Ld. defence counsel and have gone through the case file carefully. Following points are required to be determined:-

- I. Whether on 25.07.2022 at about 10.45 AM in the area of Police Station Ghuman, accused caused death of Hardev Kumar by driving his car bearing Reg. No. PB06-AP-8655 mak I-20 in a rash and negligent manner not amounting to

culpable homicide and thereby accused committed an offence punishable Under Section-304-A IPC and within cognizance of this Court?

**II.** Whether on the same date, time and place, accused drove his car bearing No.PB06-AP-8655 mark I-20 in rash and negligent manner to endanger the human life and public safety and thereby accused committed an offence Punishable Under Section 279 IPC and within cognizance of this Court?

**9.** Perusal of the case file reveals that the accused was charged under Sections 304-A and 279 of IPC. It is well settled principle of law that onus to prove its case is on the prosecution beyond reasonable doubt and in the present case also onus was upon the prosecution to prove its case beyond reasonable doubt with regard to commission of crime.

**10.** To prove its case, prosecution has examined complainant Vijay Kumar as Pw-1 and has deposed that qua the occurrence but he further deposed that driver of the offending vehicle ran away from the spot with offending vehicle to whom, he could not identify nor could note the number of offending vehicle, as he started paying attention towards his brother. He further deposed that he does not know the accused present in the Court nor he told the name of accused to Police neither he ever identified him in the presence of Police and Police has not recorded any statement in this regard. Ld. APP for the State declared him hostile and requested for cross-examination. But nothing material came out from the cross-examination of witness rather he deposed that police obtained his signatures on blank papers.

**11.** Thereafter, prosecution examined retired IO/ASI Balwinder Singh AS Pw-2, who deposed as per the version of prosecution and proved on record

documents i.e. statement Ex.PA/1, ruqa Ex.Pw2/A, FIR Ex.Pw2/B, endorsement Ex.Pw2/C, site plan Ex.Pw2/D, applications Ex.Pw2/E and Ex.Pw2/F, Form No. 25/35 Ex.Pw2/G, possession memo of car Ex.Pw2/H, possession memo of motorcycle Ex.Pw2/I, identification memos Ex.Pw2/J and Ex.Pw2/K, handing over memo Ex.Pw2/L, arrest memo Ex.Pw2/M, personal bonds Ex.Pw2/N and Ex.Pw2/O, application Ex.Pw2/P, application Ex.Pw2/Q, possession memo of RC and driving license Ex.Pw2/R and identification memo Ex.P4/Pw1. During his cross-examination, he states that on the day of occurrence, he was present at Adda Ghuman. The distance between place of occurrence and Adda Ghuman is one kilometer. He has not seen the accident. He has not seen the driver, as he had ran away from the spot.

**12.** Thereafter, prosecution examined Karan Kumar, eye-witness as Pw-3, who deposed qua the occurrence but he further deposed that driver of the offending vehicle ran away from the spot with offending vehicle to whom, he could not identify nor could note the number of offending vehicle, as he started paying attention towards his brother. He further deposed that he does not know the accused present in the Court nor he told the name of accused to Police neither he ever identified him in the presence of Police and Police has not recorded any statement in this regard. Ld. APP for the State declared him hostile and requested for cross-examination. But nothing material came out from the cross-examination of witness.

**13.** It is well settled that testimony of a hostile witness cannot be outrightly rejected. It has been held by the Hon'ble Supreme Court of India in

the latest pronouncement in case tiled as 'Ram Krishan Vs.State of Maharashtra', 2007(3) RCR(Crl.), page 33(SC) that when a prosecution witness is cross examined and contradicted with the leave of the court by the party calling him as a witness, it is for the court to consider whether as a result of such cross examination and contradiction, witness stand discredited or can still be believed in regard to any part of his testimony. If in his cross examination it has not lost the confidence of the court and his credit has not been completely shaken and if testimony of such witness when read as whole with care and caution and corroborated by any other evidence on those material particulars facts satisfy the conscious of the court to act upon his testimony then no embargo can be placed to disbelieve such witness merely on account of the fact that he has been declared hostile. The same view has been reiterated by the Hon'ble Punjab & Haryana High Court in case titled as 'Mohinder Singh Vs.State of Punjab', 2007(2) RCR(Crl.), page 227(P&H). I have gone through the statement of Pw-1 complainant and Pw-3 eye-witness in that perspective also. Same are devoid of any merits and no reliance can be placed upon the same. Pw-1 and Pw-3 have stated that they do not know the accused present in the Court nor they told the name of accused to Police and neither they even identified him in presence of police and further they have not supported the case of the prosecution. Thereafter, Ld. APP for the State has declared the witnesses hostile.

14. There is no other material witnesses in the list of witnesses to prove the charges against the accused beyond reasonable doubt. The witnesses did not support the case of prosecution, as such, the case of the prosecution

has not been proved. Accordingly, the accused Jaskaran Singh is acquitted of the charges framed against him. Accused has furnished personal bonds under Section 437-A Cr.P.C., which are attested and accepted. Surety bonds be furnished within ten working days from the date of this judgment. Case property, if any, be disposed of as per rules after the period of appeal or revision. File be consigned to the Judicial Record Room, Batala.

Date of Order :- 08.10.2024  
Harjeet Singh, Stenographer II

(Rajinder Singh), PCS  
Judicial Magistrate Ist Class,  
Batala/UID PB0433

Visit [ecourts.gov.in](https://ecourts.gov.in) for updates or download mobile app “eCourts Services” from Android or iOS

Present: Sh. Jagjivan Singh, Ld. APP for the State.  
Accused Jaskaran Singh on bail with counsel Sh. Paramjit  
Kumar, Advocate.

Pw-2 retired ASI Balwinder Singh and Pw-3 Karan Kumar are present and examined. No other PW is present today. As the material witnesses i.e., complainant Vijay Kumar and eye-witness Karan Kumar have been declared hostile by Ld. APP for the State, hence, no improvement can be made by examining other official witnesses. Accordingly, the prosecution evidence is closed by order.

Statement of accused under Sections 313 of Code of Criminal Procedure has been recorded and accused opted to lead no defence.

Arguments heard. Vide separate detailed judgment of even date, accused Jaskaran Singh is acquitted of the charges framed against him. Accused has furnished personal bonds under Section 437-A Cr.P.C., which are attested and accepted. Surety bonds be furnished within ten working days from the date of this judgment. Case property, if any, be disposed of as per rules after the period of appeal or revision. File be consigned to the Judicial Record Room, Batala.

Date of Order :- 08.10.2024  
Harjeet Singh, Stenographer II

(Rajinder Singh), PCS  
Judicial Magistrate Ist Class,  
Batala/UID PB0433