

In the Court of Shri Amar Jeet Singh, Addl. Sessions Judge,
Fatehgarh Sahib.

UID No.PB0444
CNR No:PBFG010015622021
Criminal Appeal No. : 33/2021
Date of Decision :01.12.2021

Gurcharan Singh aged about 50 years son of Sh.Baldev Singh, resident of
Village Bhaloor, Police Station Bagha Purana, District Moga, Punjab, India.

..... Appellant/convict

V E R S U S

State of Punjab

.....Respondent

Appeal against the judgment of conviction/quantum
of sentence dated 02.04.2021 passed by the Court of
Sh.Ashish Kumar Bansal, PCS, Additional Chief
Judicial Magistrate, Fatehgarh Sahib in FIR No.25,
dated 12.02.2018, under Section 283/304-A, 427 of
IPC, Police Station Bassi Pathana, CHI/58/2018,
date of institution 14.03.2018 CNR
No.PBFG030019022018, whereby, the learned trial
Court has wrongly ordered the appellant to
imprisonment for a period of 4 ½ months and fine
of Rs.200/- under Section 283 IPC and further

wrongly ordered the appellant/convict to undergo rigorous imprisonment for a period of 1 ½ years (One and one a half year) and fine of Rs.3,000/- under Section 304-A of IPC.

Present: Shri Amandeep Bawa Advocate for the appellant
Ms.Anju Narula Addl.PP for the State

JUDGEMENT

1. Appellant has filed the present appeal against the judgment of conviction/quantum of sentence dated 02.04.2021 passed by Court of Sh.Ashish Kumar Bansal, Additional Chief Judicial Magistrate, Fatehgarh Sahib whereby the trial Court has convict the appellant as mentioned above and thereby prayer was made for accepting the present appeal.
2. Consequent upon notice, respondent appeared and contested the application.
3. Record of Trial Court was requisitioned and perused.
4. Counsel for the appellant has argued that trial Court has passed the judgment on the basis of assumptions and presumptions. Presence of the complainant at the spot is doubtful. A false story has been concocted by the prosecution and complainant has been planted as eye witness.

5. As per prosecution, the father of deceased who is complainant has stated that he and his son were going on different motorcycles and his son was ahead of him and when they reached at Bhurey Da Dhaba in the area of Niamu Majra a truck was parked in the middle of the road without any indicator and parking lights due to early morning his son could not see the truck and struck behind it and received serious injuries and later on he expired. The said accident has occurred due to the negligent act of accused.
6. I have gone through the record of the case.
7. Perusal of FIR shows that present FIR was lodged on 12.02.2018 and accident alleged to have been occurred on 07.02.2018. It is the version of prosecution that complainant was following the deceased and accident occurred in his presence and complainant is none other than the father of the deceased. But no efforts were made by complainant Bhag Singh to inform the police rather HC Amar Jeet Singh PW1 in his evidence has stated that he received a telephone call from hospital of Peerjain regarding admission of deceased Sukhvir Singh. He has stated that on 07.02.2018 when he visited Indus Hospital, Peerjain there was no family member or eye witness were present in the Hospital. As per the MLR Ex PW2/B, Sukhvir Singh deceased was

brought to hospital by unknown person. It is highly improbable for a father who has seen the accident of his son would not make any effort to take his son to hospital. As per the medical history, deceased was found injured by unknown person and he was brought to hospital in an unconscious state. The said fact has also been admitted by IO PW1. PW1 has further stated in cross-examination that on his second visit to hospital on 08.02.2018, the father of deceased i.e. complainant was also present in the Hospital and has stated that his son will give statement regarding the occurrence. This shows that he was not eye witness nor he was present at the time of alleged accident. Complainant Bhag Singh has appeared as PW6 who has stated that after the accident a truck driver came to him and disclosed his name and address and many people had gathered at the spot and after that driver escaped with his truck and tanker. But perusal of photographs shows that the said truck was never taken away by the driver and was standing there and was taken into police possession. Complainant has further stated that he has clicked 5 photographs on his mobile phone on same day but he did not produce the same when he firstly met the police in the hospital on 08.02.2018 rather the same were handed over on 13.02.2018 vide memo Ex PW1/8, this further belies the version

of complainant. As such, the version of prosecution cannot be relied upon and complainant has been planted as eye witness lateron and his version is not corroborated by any other substantive evidence and as such trial Court has ignored this material fact and wrongly convicted the accused which is not sustainable.

8. In view of my above discussion, the present appeal is hereby accepted and the Judgement of conviction/quantum of sentence dated 02.04.2021 passed by the ld. lower Court is hereby set aside. Accused/convict is ordered to be acquitted. Bail bonds and surety bonds stands discharged. Record of ld. Lower court be sent back along with copy of this Judgement and file of this appeal be consigned to the record room, after due compliance.

**Pronounced in open court.
Dated:01.12.2021.**

**(Amar Jeet Singh)
Addl. Sessions Judge
Fatehgarh Sahib
UID No.PB0444**

Directly dictated on computer

Present: Shri Amandeep Bawa Advocate for the appellant
Ms.Anju Narula Addl.PP for the State

Arguments heard. Vide my separate detailed judgement of even date, the present appeal is hereby accepted and the Judgement of conviction/quantum of sentence dated 02.04.2021 passed by the ld. lower Court is hereby set aside. Accused/convict is ordered to be acquitted. Bail bonds and surety bonds stands discharged. Record of ld. Lower court be sent back along with copy of this Judgement and file of this appeal be consigned to the record room, after due compliance.

Pronounced in open court.
Dated:01.12.2021.

(Amar Jeet Singh)
Addl. Sessions Judge
Fatehgarh Sahib
UID No.PB0444