

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on: 27.10.2021
Pronounced on: 29.10.2021

CRMC No. 249/2016

Bachan Singh

.....Appellant(s)/Petitioner(s)

Through: Mr. K. Nirmal Kotwal, Advocate.

Vs

State of J&K and others

..... Respondent(s)

Through: Mr. M. K. Bhardwaj, Sr. Advocate with
Mr. Gagan Kohli, Advocate.

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. The present petition has been filed by the petitioner under section 561-A Cr.P.C. (now 482 Cr.P.C) for quashing the judgment/order dated 08.02.2016, by virtue of which, Court of learned JMIC, Bishnah (hereinafter referred to as the trial court), has acquitted the respondent No. 2 from the charges for commission of offences under sections 279/337/304A RPC, on the grounds that the learned trial court has not appreciated the evidence in its right perspective and has acquitted the respondent No. 2 erroneously.
2. Mr. K. Nirmal Kotwal, learned counsel for the petitioner reiterated the grounds taken in the memo of the petition.

3. Mr. M. K. Bhardwaj, learned Sr. Advocate submitted that, there is no error in the appreciation of evidence by the learned trial court and the present petition is misconceived.
4. Heard and perused the record.
5. The brief facts are that FIR bearing No. 1/2008 was registered on 02.01.2008 on an information received from the reliable sources, that one person who was driving a Maruti Car No. 2231/JKD in a rash and negligent manner, was coming from R S Pura towards Kherian and when it reached near Petrol Pump at Kherian, the same hit one motor cycle bearing No. JK02AC/4274, that was also coming from R S Pura towards Jammu and caused an accident. Due to the said accident, the motorcyclist got injured and was taken to hospital. Initially FIR bearing No. 1/2008 was registered under section 297/337 RPC. However, the injured expired and thereafter Section 304-A was also added. After the conclusion of investigation, the challan for commission of offences under sections 279/337/304A RPC was filed against the respondent No:2. The respondent No:2 did not plead guilty and the prosecution was directed to lead evidence.
6. The prosecution has examined PW-Kaim Din, PW-Bachan Singh, PW-Ranjit Singh, PW-Bachan Singh, PW-Surinder Singh, PW-Kuldeep Singh, PW-Rajinder Singh, PW-Raj Mohd., PW-Shanker Singh, PW-Dilip singh, PW- Arjun Singh, PW-Baldev Singh and PW-Jeet Singh, as witnesses in support of charges. No witness was examined by respondent No. 2 in support of his defence. The trial court after

considering the evidence led by the prosecution, acquitted the respondent No. 2.

7. A perusal of the challan reveals that only PW-Rajinder Singh, PW-Ranjit Singh and PW-Kuldeep Singh have been cited as eye witnesses. A perusal of the statement of Rajinder Singh reveals that during the course of trial, he turned hostile and did not support the prosecution case, as he categorically stated that the accident was not caused by the respondent No. 2. He was cross-examined by the SPO. However, nothing incriminating against the respondent No. 2, could be elicited even during cross-examination. A perusal of the statement of PW-Ranjit Singh reveals that when he reached on spot, accident had already taken place. So far as PW-Kuldeep Singh is concerned, he had stated that he was going along with his cousin on a motorcycle and when they reached at TCP Kherian near Petrol Pump, one Maruti Car bearing No. JK02V/3303 came from wrong side and hit the motorcycle. Due to this accident, the right leg of his cousin-Harvinder Singh got amputated and he got injuries on his right leg. He further stated that, the accused ran away from the spot and no one came on the spot at the time of accident and some people came after the accident, but nobody came for their help. He further stated that he came to know about the parentage of the accused from some people and the Police told him the name of Paramjit Singh.
8. The learned trial court after considering the evidence of these witnesses has come to the conclusion that the prosecution has miserably failed to connect the accused with the commission of the offence. Statement of

PW Kuldeep Singh too does not connect the petitioner with the crime as he was neither aware about the parentage of respondent No:2 nor his name. Learned counsel appearing for the petitioner could not bring to the notice of the Court that any vital piece of evidence that has been overlooked by the learned trial court while appreciating the evidence. Once the learned trial court has acquitted the respondent No. 2 for the commission of offence after appreciating the evidence, this Court cannot re-appreciate the evidence and come to the other conclusion merely because on the basis of same evidence the other view is possible. Needless to say, even no other view is possible on the basis of evidence led by the prosecution.

9. Viewed thus, there is no merit in the petition. The same is, accordingly, dismissed.

(RAJNESH OSWAL)
JUDGE

Jammu
29.10.2021
Sahil Padha

Whether the case is speaking: Yes/No.
Whether the case is reportable: Yes/No.