

CRR-4148-2012 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR-4148-2012 (O&M).
Date of decision: May 9, 2013.**

Mohammad Wasim

..... Petitioner

Versus

State of Punjab

..... Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT: Mr.N.L.Sammi, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL).

CRM-24215-2013

CRM is allowed.

The date of hearing is pre-poned from 30.7.2013 to
today.

CRM-25200-2013

CRM is allowed.

Statements of PW.2 Jaswinderpal Singh and PW.7
Raghbir Singh are permitted to be taken on record.

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It has, inter alia, been argued that the identity of the
petitioner is debatable and that this point has not been dealt with by the
Courts below.

However, a perusal of the judgment passed by the
lower appellate Court clearly indicates that this point was raised and

dealt with.

Counsel for the petitioner has further argued that the trial Court has not fairly appreciated the contentions of the counsel for the petitioner regarding the identity of the petitioner having not been established. A perusal of the judgment passed by the lower Appellate Court indicates that on the basis of the statements of two witnesses produced before the Court, the lower appellate Court has given a specific finding to the effect that the identity of the petitioner to be a driver of the Jeep involved in the accident stands established.

Counsel for the petitioner has further argued that cross-examination of Jaswinderpal Singh PW.2 is that the driver had escaped but he made an improvement in his statement while appearing in the Court by stating that the petitioner was apprehended on the spot. In view of the said contradiction, the petitioner is entitled to benefit of doubt.

I have carefully considered the said contention also and I am of the opinion that there is statement of PW.7 Raghubir Chand to the effect that he had earlier seen the petitioner being driver of jeep belonging to Circus and that he identified the petitioner. In view of said statement of an independent witness, the identity of the petitioner cannot be doubted.

Besides this, there is no scope for interference in the order of conviction passed by the Courts below after convicting the petitioner for a period of one year for having caused death.

Counsel for the petitioner has submitted that in

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statement EX.PA made by the prosecution witness, the name of the petitioner has not been disclosed.

As discussed hereinbefore and held by two Courts below as a fact that the petitioner stands identified to be a driver of the offending vehicle. No doubt, it is the duty of the prosecution agency to establish the case against the accused beyond shadow of doubt but in the present case the petitioner has not even raised a plea as to why he has been falsely implicated in the case leaving the actual culprit by the victim and the independent witness.

No ground is made out for interference.

Dismissed.

May 9, 2013.
rka

(M.M.S. BEDI)
JUDGE