

25

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Order Reserved on: September 30, 2011
Order Pronounced on: October 24, 2011

+ **Crl.Rev.(P) No.562/2008**

SIYA RAM

..... Petitioner

Through: Mr.Rajesh K.Sharma, Advocate

versus

STATE

..... Respondent

Through: Mr.Rajesh Mahajan, Additional
Standing Counsel (Crl.) for State
with Ms.Urvi Kathulia, Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
 2. To be referred to Reporter or not?
 3. Whether the judgment should be reported in the Digest?
- No.

SUNIL GAUR, J.

1. Impugned Order of 5th September, 2008 upholds petitioner's conviction for the offences under Section 338/279 of Indian Penal Code and the sentence of rigorous imprisonment for one year and rigorous imprisonment for six months respectively imposed upon him by the Trial Court.

2. FIR No.66/98 under Section 279/338 of IPC was registered at P.S.Mukerji Nagar on 26.03.1998 against the petitioner, in relation

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

Crl.Rev.P.No.562/2008

5

to vehicular accident caused by the petitioner while he was driving his vehicle No.DL 1LB 7984 in a rash and negligent manner at noon time on Burari Road and in front of Nirankari Sarover petitioner's vehicle had hit scooter No.DL 2SC 0907 causing injuries to scooter driver - Ajay Popli (PW-1) and its pillion rider Sanjay Madan (PW-2). The trial of this case culminated in the conviction of the petitioner for the aforesaid offences, which was followed by imposition of afore-noted substantive sentence upon the petitioner by the Trial Court.

3. In the appeal filed, petitioner had challenged this conviction on merits as well as on the quantum of sentence but without any success. In this revision petition though the impugned Order is challenged on merits also, but at the hearing, learned counsel for the petitioner had confined his submissions on the quantum of sentence alone and rightly so, as the concurrent findings of guilt of the petitioner remains unassailable.

4. What was urged on the quantum of sentence by petitioner's counsel, was that petitioner is aged 51 years and has onerous family responsibilities to his shoulders as he has a housewife and four unmarried children to support and he is earning his livelihood by running a small tea stall and has already remained behind bars for about 35 days and has no previous conviction to his discredit. It was also urged that petitioner has already faced the agony of these proceedings for about 13 years and while looking at the nature of offence committed, the substantive sentence imposed upon the petitioner deserves to be reduced to the period already undergone by him.

5. Learned additional standing counsel for the Respondent-State does not dispute that petitioner has clean antecedents and has family responsibilities to his shoulders but submits that imposition of light sentences would hardly be a deterrent.

AX

6. While taking into consideration the manner in which this incident took place, I find that the ends of justice would be met if the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him and correspondingly, maximum fine provided for the main offence, i.e. under Section 338 of Indian Penal Code is imposed upon the petitioner, as the petitioner has already faced the agony of protracted proceedings in this case and a little period of detention would surely serve as a deterrent. Lenient view is being taken as the petitioner has left driving and has now earning his livelihood by running a small tea stall. Antecedents of a convict certainly weigh with the Court in determining the quantum of sentence. Infact, to now send the petitioner behind bars would be quite harsh not only to the petitioner but also to his family.

7. Viewed in the aforesaid perspective, this petition is partly allowed to the extent of reducing the substantive sentence imposed upon the petitioner while upholding his conviction for the offences committed and by simultaneously imposing fine of Rs.1,000/- each for the offences under Section 279 and Section 338 of IPC and in default of payment of fine, to undergo simple imprisonment for a period of one month. Fine be deposited with the Trial Court within four weeks. Let the Trial Court to ensure compliance of this Order.

8. The peculiarities of this case are such which persuades this Court to reduce the substantive sentence to the period already undergone by the petitioner but it is made clear that this would not be treated as a precedent to impose flea-bit sentences.

9. With directions, as aforesaid, this petition stands disposed of.


(SUNIL GAUR)
JUDGE

October 24, 2011

pkb