

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1238 of 2006 (o&m)
Date of Decision: 15.07.2015

Beer Singh

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

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

Present: Mr. C.R. Dahiya, Advocate
for the petitioner.

Mr. Gurdas Singh Salwara, D.A.G. Haryana.

ANITA CHAUDHRY, J.

1. Through this petition, the revisionist Beer Singh has challenged his conviction under Section 279, 337 and 304-A IPC. The conviction was recorded in FIR No.212 lodged on 26.09.1996 at Police Station Khol, District Rewari. The Chief Judicial Magistrate, Rewari vide judgment dated 09.12.2002 convicted the petitioner and sentenced him to undergo the following imprisonment:-

Under Section	R.I.	Fine	In default of payment of fine further imprisonment
279 IPC	6 months	Rs.500/-	10 days
337 IPC	6 months	-	-
304-A IPC	2 years	Rs.2000/-	30 days

The judgment was affirmed by the Addl. Sessions Judge, Rewari vide order dated 02.06.2006. The petitioner was taken in custody to undergo the remaining part of sentence.

2. Today, during the course of arguments, learned counsel for the petitioner had confined his prayer only to the quantum of sentence.

3. I have heard learned counsel for the petitioner as well as learned State counsel appearing for the State of Punjab.

4. The counsel for the petitioner contends that the petitioner is a first offender and had faced a protracted trial for the last more than 19 years as the incident is of December, 2002 and the petitioner had remained in custody for about 40 days. Learned counsel for the petitioner prays for probation for the petitioner. Reliance was placed upon ***State through C.B.I., Anti Corruption Branch, Chandigarh Vs. Sanjiv Bhalla and another 2014(4) RCR (Crl.) 17, Devi Singh Vs. State of H.P. 2013(2) RCR (Crl.) 52, B. Nagabhushanam Vs. State of Karnataka, 2008(3) RCR (Crl.) 50 and State of Punjab Vs. Paramjit Singh 2013(3) RCR (Crl.) 1039.***

5. The State counsel has opposed the prayer and submits that convict-petitioner drove the bus in rash and negligent manner and had caused the death of Rajbala, Satish and Basti Ram and injuries to two other persons and the Courts below have already taken a lenient view and it is not a fit case for probation.

6. As the prayer made by the petitioner is restricted only to the sentence, therefore, the findings recorded by the Courts below convicting the petitioner are affirmed.

As regards the prayer of benefit of probation is concerned, I find that it is not a fit case where probation should be granted as three persons had died and two others sustained serious injuries.

7. The occurrence took place on 26.09.1996. The petitioner was convicted by the trial Court vide judgment dated 09.12.2002. His appeal was dismissed by the Sessions Court on 02.06.2006. The petitioner has remained in custody for a little over one month. In the matter of sentence, the accused cannot be dealt with leniency. The punishment should commensurate with the crime committed. There is no offer of payment of any compensation. Considering the entire facts and the circumstances, I am of the view that ends of justice would be met in case the sentence awarded to the petitioner under Section 304-A IPC is reduced to 9 months.

8. Thus, partly allowing the revision, the sentence awarded under Section 304-A IPC is reduced to 9 months. The sentence awarded under Section 279 and 337 IPC would run concurrently with the sentence awarded under Section 304-A IPC. There would be no modification in the fine.

9. The petitioner is on bail. He is directed to surrender before the Court of Chief Judicial Magistrate, Rewari within three weeks from the date of passing of this

order to undergo remaining part of sentence. Copy of this order be sent to the Courts below.

10. With the above said modification, the revision petition is disposed of.

**(ANITA CHAUDHRY)
JUDGE**

15.07.2015
'Sunil Sehgal'