

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1815 of 2007 (o&m)
Date of Decision: 15.07.2015

Kapil Dev
...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. Saleem Ahmed, Advocate (Proxy Counsel)
for the petitioner.

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

ANITA CHAUDHRY, J.

1. Through this petition, the revisionist Kapil Dev has challenged his conviction under Section 279, 338 and 304-A IPC. The conviction was recorded in FIR No.208 lodged on 22.04.1999 at Police Station Sadar Karnal, District Karnal. The Judicial Magistrate Ist Class, Karnal vide judgment dated 17.08.2006 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	3 months	-	-
338 IPC	1 year	Rs.200/-	15 days
304-A IPC	2 years	Rs.500/-	1 month

The convict preferred an appeal which was partly allowed by the Sessions Judge, Karnal vide order dated 14.09.2007. The sentence of rigorous imprisonment of two years for commission of offence under Section 304-A IPC was reduced to one year. The sentence of fine and the sentence for the other offences was ordered to remain intact. 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 qua 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 16 years as the incident is of April, 1999 and the petitioner had remained in custody for 40 days. Learned counsel for the petitioner prays for probation for the petitioner.

5. The State counsel has opposed the prayer and submits that convict-petitioner drove the vehicle in rash and negligent manner and had caused the death of Laxmi Devi and injuries to one Pardeep Kumar 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 one person was died in the accident caused by the petitioner and one other got injuries.

7. The occurrence took place on 21.04.1999. The petitioner was convicted by the trial Court vide judgment dated 17.08.2006. His appeal was partly allowed by the Sessions Court on 14.09.2007. The petitioner has remained in custody for about 40 days. In the matter of sentence, the accused cannot be dealt with leniency. The punishment should commensurate with the crime that is 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 6 months.

8. Thus, partly allowing the revision, the sentence awarded under Section 304-A IPC is reduced to 6 months. The sentence awarded under Section 279 and 338 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, Karnal 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'