

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRR-1469-2003 (O&M)

Date of Decision: February 25, 2015

Ram Murti

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Ms. Aditi Girdhar, Advocate,
(Legal Aid Counsel),
for the petitioner.

Mr. Gurdas Singh, DAG, Haryana,
for the respondent.

NARESH KUMAR SANGHI, J (Oral)

1. Challenge in this criminal revision petition is to the judgment dated 12.7.2003, passed by learned Additional Sessions Judge, Yamunanagar at Jagadhri, whereby the appeal filed by the petitioner challenging his conviction and sentence, for the offences punishable under Sections 279 and 304-A, IPC, recorded by learned Judicial Magistrate Ist Class, Jagadhri, was dismissed after modification in the order of sentence.

2. At the very outset learned counsel for the petitioner,

Ram Murti, submits that in view of concurrent findings recorded by both the learned Courts below, she does not intend to challenge the conviction of the petitioner. However, she submits that in view of the fact that the occurrence is of 1994 and thereafter 20 years have lapsed; the petitioner is neither required nor involved in any other case; during trial and pendency of the appeal, the petitioner was released on bail, but he did not misuse the said concession; and that the petitioner is sole bread winner for his family, therefore, the petitioner be dealt with leniency so far as the sentence is concerned.

3. Learned counsel for the State has not opposed the submission of learned counsel for the petitioner with regard to her statement that she did not want to challenge the conviction. However, he has opposed the prayer for reducing the sentences of the petitioner.

4. I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

5. Though learned counsel has proposed not to challenge the conviction of the petitioner, but to satisfy the conscience of this Court, the material available on record has been rescanned.

6. Present case was registered on the basis of the statement suffered by the informant, Lal Singh (PW-2) disclosing that on 24.3.1994, at about 8:45 a.m., he alongwith his uncle, Kanwar Bhan (since deceased) was standing on the left side of the bus stand of village Kapal Mochan, for going to Bilaspur. In the meantime, one jeep bearing Registration No. HYA-1051, came from the Bilaspur side, being driven by the petitioner at very high speed, rashly or negligently. The said jeep directly hit Kanwar Bhan, who was standing on the left side of the road and as a result thereof he (Kanwar Bhan) fell down on the road and died at the spot. The occurrence was witnessed by Jagir Singh (PW-4) and other persons standing at the bus stand. The petitioner after leaving the jeep ran away from the spot. After registration of the FIR, investigation was carried out by ASI Ram Chander (PW-6). The inquest proceedings as per Section 174, Cr.P.C., were conducted. The offending jeep was taken into police possession and was got mechanically examined. The statements of the witnesses in terms of Section 161, Cr.P.C., were recorded. The petitioner was arrested and produced before the Court. After completion of the investigation, the charge-sheet (report under Section 173, Cr.P.C.) was presented before learned Area Judicial Magistrate by the Station House Officer.

7. The charges for the offences punishable under Sections 279 and 304-A, IPC, were framed to which the petitioner pleaded not guilty and claimed trial.

8. In support of its case, the prosecution examined PW-1 Sat Pal, an eye-witness of the occurrence; PW-2 Lal Singh, informant/eye-witness of the occurrence; PW-3 Subhash Gupta, a photographer; PW-4 Jagir Singh, an eye-witness of the occurrence; PW-5 Jagan Nath, who had handed over the documents of the offending jeep to the police; PW-6 ASI Ram Chander, who had investigated the matter; PW-7 Constable Roshan Lal, who had mechanically examined the offending vehicle; and PW-8 Dr. Rajbir Singh, who had conducted the autopsy on the corpus of Kanwar Bhan (since deceased).

9. In his statement under Section 313, Cr.P.C., the petitioner denied the allegation levelled against him and pleaded that the offending jeep was being driven by one Sikh gentleman. No evidence in defence was led.

10. After perusal of the record received from the learned Trial Court and going through the depositions of the witnesses, this Court is of the considered view that the judgment of conviction passed by the learned Trial Court and re-affirmed by the first Appellate Court is well based and, as such, learned

counsel for the petitioner has correctly proposed not to challenge the conviction of the petitioner.

11. However, there appears to be substance in the submissions of learned counsel for the petitioner when she submitted that the occurrence had taken place about 20 years ago; the petitioner was on bail during trial and appeal and he did not misuse the said concession; he is neither required nor involved in any other case; and that the petitioner is the only bread winner for his entire family consisting of several members.

12. In view of totality of the facts and circumstances of the case, the order of sentence passed by learned Trial Court and modified by learned first Appellate Court is further modified and now the petitioner has to undergo the sentences for the offences punishable under Sections 279 and 304-A, IPC, as detailed hereunder:-

Under Section	Sentence (R.I.)	Fine (in Rs.)	In Default (R.I.)
279, IPC	6 months	500/-	20 days
304A, IPC	9 months	1,000/-	2 months

Both the sentences shall run concurrently.

13. With the above modification in the order of sentence, the present criminal revision petition is partly allowed. The petitioner shall be taken into custody for undergoing the

remaining part of his sentences.

14. A copy of this judgment be sent to the learned Trial Court alongwith the Trial Court record immediately.

(NARESH KUMAR SANGHI)
JUDGE

February 25, 2015
P Kapoor