

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRR-3718-2014 (O&M)
Date of decision:24.8.2015**

Lal Babu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Adarsh Jain, Advocate for the petitioner.
Mr.Ashish Yadav, Addl. A.G., Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

Present criminal revision petition is directed against the impugned judgment dated 29.9.2014 passed by the learned Additional Sessions Judge, Faridabad, whereby judgment of conviction dated 11.6.2012 and order of sentence dated 13.6.2012 passed by the learned Additional Chief Judicial Magistrate, Faridabad, were upheld, dismissing the appeal of the petitioner.

Brief facts of the case, as noticed by the learned Additional Sessions Judge in para 2 of his impugned judgment, are that present case was registered on the basis of statement Ex.PW1/A given to the police by Parveen son of Mange Ram, resident of village Palla (Faridabad) with the allegations that on 14.07.2006, at about 3 p.m., he was standing in front of his house, while his niece Khushi, aged about 2 years was playing in front of the house. In the meantime, one water tanker bearing registration No.HR-38G-5642 came from the side of village Tilpat at a fast speed and in a rash and negligent manner and he brought the tanker towards their house

and crushed Khushi, who fell down and tyre crossed over her legs and feet. She also suffered inner injuries between her both legs and stomach and she started bleeding from her vagina. He as well as his uncle Gajraj stopped the tanker and overpowered driver, who disclosed his name as Lal Babu son of Sukhdev, caste Mangla, resident of village Machurapur, Distt. Sitamadi (Bihar). He further disclosed that driver had been handed over to the police, while making statement and injured had been taken to B.K.Hospital, Faridabad by her father and he sought action against accused. On the basis of this statement, formal FIR Ex.PW7/A was registered. Rough site plan of the place of accident Ex.PW1/B was prepared. The offending tanker was taken into possession vide recovery memo Ex.PW7/C alongwith its documents and driving license of the driver vide memo Ex.PW8/B. Medico legal report of the injured was also obtained, but she died on the same day and post mortem of the dead body was also got conducted at B.K.Hospital, Faridabad. Statements of witnesses were recorded.

The police report under Section 173 Cr.P.C. having been presented to the court, copy thereof along with documents attached therewith was supplied to the accused, as envisaged under Section 207 Cr. P.C.

Having found a prima facie case, charge was framed against the accused for committing the offence punishable under Sections 279 and 304-A of the Indian Penal Code ('IPC' for short). The accused pleaded not guilty and claimed trial. With a view to prove its case, prosecution examined as many as eight prosecution witnesses, besides producing other relevant documentary evidence. On conclusion of the prosecution evidence, statement of the accused was recorded under Section 313 Cr.P.C. All the

incriminating material available on record was put to him. He denied all the allegations, alleged false implication and pleaded complete innocence. However, the accused did not lead any evidence in his defence.

After hearing the learned counsel for the parties and going through the record of the case, the learned trial Court came to the conclusion that the prosecution has proved its case bringing home the guilt against the accused. Accordingly, his conviction was recorded vide impugned judgment of conviction dated 11.6.2012.

The convict was sentenced to undergo rigorous imprisonment for six months for the offence under Section 279 IPC. He was also sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- for the offence under Section 304-A IPC. In default of payment of fine, the convict was ordered to undergo further rigorous imprisonment for one month. However, both the sentences were ordered to run concurrently, vide order of sentence dated 13.6.2012.

Feeling aggrieved against the above-said impugned judgment of conviction and order of sentence, petitioner filed his appeal, which also came to be dismissed by the learned Additional Sessions Judge, Faridabad, vide his impugned judgment dated 29.9.2014. Hence this criminal revision petition.

At the time of motion hearing, learned counsel for the petitioner did not argue the case on merits. He restricted his prayer only to the quantum of sentence. Accordingly, on 19.11.2014, notice of motion was issued by this Court, by passing the following order:-

“Learned counsel for the petitioner restricts his prayer to quantum of sentence and does not challenge the conviction on merits.

Notice of motion for 04.02.2015.

Meanwhile, subject to deposit of Rs.50,000/- before the trial Court as compensation, to be given to the legal heirs/parents of deceased child, the sentence of the petitioner shall be suspended on his furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate, Faridabad.”

On the next date of hearing i.e. 04.02.2015, petitioner was directed to pay an amount of Rs.25,000/- towards compensation before the learned trial Court and the same reads as under:-

“Custody certificate filed by the State, is taken on record.

List on 12.03.2015.”

In the meantime, petitioner shall pay another sum of Rs.25,000/- towards compensation before the trial Court.”

It is a matter of record that the above-said order dated 4.2.2015 passed by this Court has not been complied with by the petitioner. When a pointed question was put to the learned counsel for the petitioner as to why despite availing a period of more than 6 ½ months, petitioner did not comply with the order dated 4.2.2015 passed by this Court, he had no answer and rightly so, it being a matter of record. Further, no justification, whatsoever, has been shown by the learned counsel for the petitioner for granting any extension in time to the petitioner.

A bare reading of the above-said orders dated 19.11.2014 and 4.2.2015 would show that since the order dated 19.11.2014 passed by this Court was a conditional one, petitioner had no other option except to comply with the same, because he was to be released on bail on suspension of his sentence. However, the movement was released from jail, he did not show any respect to the justice delivery system. Despite availing a sufficient

long period of more than 6 ½ months, petitioner did not comply with the order dated 4.2.2015.

It is also pertinent to note here that the case was adjourned on 12.3.2015 to 30.4.2015. It was again adjourned to 9.7.2015 and thereafter to today, i.e. 24.8.2015. Despite knowing fully well that he was under legal obligation to ensure the meticulous compliance of the above-said order dated 4.2.2015 passed by this Court, petitioner did not do so for the reasons best known to him.

So far as the conviction of the petitioner is concerned, it is no more under challenge before this Court, because learned counsel for the petitioner thought it appropriate not to challenge the conviction on merits and rightly so, because there was hardly any scope for it. So far as the quantum of sentence was concerned, the concession of suspension of sentence was granted to the petitioner. However, once he was released from jail, he started misusing the process of Court. This is the reason that petitioner has not been found to be a bona fide litigant. No reason, whatsoever, is forth coming as to why he did not comply with the above-said order dated 4.2.2015 passed by this Court.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that petitioner is not entitled for any reduction in sentence. It is so said because both the courts have recorded cogent reasons in support of their respective judicious conclusions. Sentence awarded to the petitioner cannot be stated to be on higher side.

In fact, already a lenient view has been taken by the learned

trial Court, while awarding the sentence to the petitioner and the same was rightly confirmed by the learned Additional Sessions Judge, Faridabad, while dismissing the appeal of the petitioner. Thus, no case for interference has been made out at the hands of this Court, while exercising its revisional jurisdiction, which itself is a limited one.

Consequently, finding the present criminal revision petition to be misconceived, bereft of merit and without any substance, even for the purpose of reduction of sentence, it must fail. Bail bonds and surety bonds of the petitioner are cancelled and the concerned police authorities are directed to take the petitioner in custody, for serving his remaining sentence.

Resultantly, with the above-said observations made and directions issued, the instant criminal revision petition stands dismissed, however, with no order as to costs.

24.8.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE