

In the High Court of Punjab and Haryana at Chandigarh

CRR No. 3804 of 2014 (O&M)

Date of decision: 10.4.2015

Tarsem Singh

.....Petitioner

Versus

State of Punjab

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Gurmeet Singh , Advocate,
for the petitioner.

Mr.A.S.Kler, DAG, Punjab.

RAJ MOHAN SINGH, J.

In this revision petition, challenge has been made to judgment dated 27.10.2014, passed by Additional Sessions Judge, Tarn Taran, whereby appeal filed against the judgment of conviction and order of sentence dated 10.5.2011 passed by Judicial Magistrate, Ist Class Patti was dismissed.

At the time of preliminary hearing, learned counsel for the petitioner, in view of concurrent findings recorded by both the Courts below, did not propose to contest the case on merits, rather felt contended if the revision is considered on quantum of sentence,

claiming the same to be on higher side.

On 26.11.2014, this Court passed the following order:-

“ Challenge in this criminal revision petition is to the judgment dated 27.10.2014 passed by learned Additional Sessions Judge, Tarn Tarn, whereby the appeal filed by the petitioner challenging his conviction for the offence punishable under Sections 279 and 304 –A IPC recorded by the learned Chief Judicial Magistrate, Patti, was dismissed.

At the very outset, learned counsel for the petitioner submits that in view of the concurrent findings of both the courts below, he does not propose to contest the criminal revision petition on merits, however, taking into consideration all the facts and circumstances of the case, the sentence awarded by the courts below is on the higher side.

Notice of motion for 19.1.2015 qua quantum of sentence only.”

The background in which the courts below have fastened criminal liability upon the petitioner originated from the accident which took place on 20.8.2008 when complainant Sarwan Singh suffered statement before the police that he had come to village Varnala to meet his maternal uncle Balwinder Singh. His uncle told him that he had to make some payment at brick kiln and the complainant should accompany him to that place. Both rided a motorcycle. Balwinder Singh was driving the motorcycle, whereas,

complainant was a pillion rider. When they reached Patti Khemkaran road, the offending vehicle i.e. Swaraj tractor tied with two trolleys came from Patti side and was being driven by the petitioner (whose name came to be known later on). It was alleged that the tractor did not follow the driving rules and struck against the motorcycle. Both fell down from the motorcycle and Balwinder Singh expired due to fatal injuries. Motorcycle was also damaged. It was alleged that the accident took place solely on the basis of negligence of the petitioner.

Trial Court on the basis of material on record did not take any lenient view so as to release the petitioner on probation. Trial Court sentenced the petitioner for rigorous imprisonment for six months and fine of ₹ 1,000/- under Section 279 IPC and in default of payment of fine, petitioner was to further undergo rigorous imprisonment for one month. Petitioner was also sentenced to undergo rigorous imprisonment for two years along with fine of ₹ 9,000/- under Section 304-A IPC and in the event of default of payment of fine, he was to undergo further rigorous imprisonment for one month. Out of total fine, an amount of ₹ 8,000/- was ordered to be paid to the legal representative of deceased. However, sentences were ordered to run concurrently.

Petitioner aggrieved by the aforesaid judgment of conviction and order of sentence assailed the same before the Appellate Court on the ground that the trial Court did not take strict scrutiny of evidence of the important witnesses despite the fact that prosecution was to stand on its own legs. It was also alleged that

identity of the petitioner was not proved on record and the name of the petitioner subsequently brought on record by some mechanism which was claimed to be conspicuous in its existence. Petitioner also relied upon statement of PW Dogar Singh and Karaj Singh to prove his innocence. The case property i.e. the tractor trolleys were never produced in the Court. No independent corroboration was made by the prosecution according to the petitioner, rather the prosecution case revolved around testimonies of interested witnesses. At last it was also pointed out that the entire incriminating material was not put to the petitioner in his statement under Section 313 Cr.P.C. Lower Appellate Court also endorsed the findings recorded by the trial Court.

Learned counsel for the petitioner after arguing the case before this Court made a statement that he would confine his arguments only on the factum of quantum of sentence.

Keeping in view the circumstances in which accident took place i.e. the petitioner being involved in agriculture pursuit in taking the agriculture produce by means of tractor, no mens rea was involved in the case. Petitioner also pleaded grounds for releasing him on probation in view of his assertion that he belongs to a poor family and his family is dependent upon him and he undertook that he will not commit such mistake in future and accordingly prayed for lenient view in award of sentence.

Petitioner has reiterated the grounds of his being a poor person and his entire family is dependent upon him. Petitioner craves indulgence of the Court that in view of period undergone by

him, his sentence may be commuted to the period already undergone by him subject to lawful terms and conditions.

I have considered the submissions made by learned counsel for the petitioner. The accident in question took place in August 2008 between the tractor trolley and the motorcycle on which complainant and deceased were going to the place of brick kiln owner. Petitioner was apparently involved in agriculture pursuit and no mens rea to commit such an accident could be attributed to him. Trial Court has already awarded an amount of ₹ 8,000/- from the component of fine to be paid to the legal representatives of the deceased. According to custody certificate, the petitioner has already undergone about six months of actual sentence as on today. If earned remissions to the tune of 2 months 23 days is also included, then the total period undergone would come to about nine months.

Keeping in view all the attending circumstances, it would be just and appropriate to sentence the petitioner for the period already undergone by him subject to award of ₹ 50,000/- as compensation to the legal representatives of deceased in addition to the amount of ₹ 8,000/- already awarded by the Courts below. Award of compensation to the tune of ₹ 50,000/- would be in addition to any award of compensation passed by any accident Tribunal (if any).

With this modification, this revision petition is disposed of, petitioner shall pay the amount of ₹ 50,000/- to the legal representatives of deceased within a period of one month from the

date of receipt of certified copy of this order, failing which, this revision petition would be deemed to have been dismissed and petitioner shall undergo remaining sentence thereafter.

(RAJ MOHAN SINGH)
JUDGE

April 10, 2015
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