

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 1503 of 2006

Date of Decision: 01.02.2016

Didar Singh

...Petitioner

Versus

U.T., Chandigarh

...Respondent

Coram: Hon'ble Mrs. Justice Raj Rahul Garg

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters? Yes
3. Whether the judgment should be reported in the Digest?

**Argued By: Mr. C.S. Jattana, Advocate
for the petitioner.**

Ms. Ashima Mor, Standing Counsel for U.T., Chandigarh.

Raj Rahul Garg, J.

This revision petition is directed against the judgment dated 12.07.2006 rendered by the first appellate court of learned Additional Sessions Judge, Chandigarh whereby the judgment of conviction dated 12.12.2001 rendered by learned Judicial Magistrate Ist Class, Chandigarh was maintained and also the order on sentence of the even date. Vide order on sentence, petitioner-accused was sentenced to undergo rigorous imprisonment for a period of six months for offence under Section 279 IPC; for offence punishable under Section 304-A IPC, he was sentenced to undergo rigorous imprisonment for a period of two years and a fine of Rs. 1000/-. In default of payment of fine, to further undergo rigorous imprisonment for two months.

2. Brief facts of the case are like this; that complainant-Murari Lal was doing cycle repair work near light point Sectors 19-20 by the side of Masjid. On

05.10.1995, a Sikh gentleman was coming from Sector 20-B, Chandigarh side and crossing the traffic lights. At that time, petitioner, who was driving bus No. PJE-7616 belonging to Pepsu Roadways, driving the bus at a high speed, rashly and negligently came there and struck against the bicycle of the aforesaid Sikh gentleman, by its driver side. Resultantly, cyclist fell down and sustained severe injuries. Petitioner-accused got down from the bus. In the meanwhile, police party also reached there and the cyclist was taken to the hospital. Information was sent to the police station whereupon ASI Chanan Masih reached the spot and recorded the statement of complainant as mentioned above. On the basis of this statement, FIR of this case was registered. Rough site plan of the spot was prepared. Both the vehicles were taken into police possession. The injured remained unfit to make statement and ultimately he died on 12.10.1995. Inquest proceedings were completed. Post-mortem examination of the dead body was got conducted. Statements of witnesses were recorded. Accused was arrested. After completion of necessary investigations, the challan was filed in the Court against the accused.

3. Finding a prima-facie case against the accused, he was charge-sheeted for committing offence punishable under Sections 279, 304-A IPC, to which accused did not plead guilty and claimed trial. After taking entire prosecution evidence, statement of accused under Section 313 Cr.P.C. was recorded, wherein, accused denied each allegation of the prosecution and pleaded his false implication. The defence taken by the accused is this that on 05.10.1995, he was driving the offending bus. Deceased himself struck against the bus but alleged that the incident took place because of the rash and negligent driving of the accused. Deceased suddenly came on the road from Sector-20 side, without adhering to the traffic lights and dashed against his bus and suffered injuries and

died. He also examined Harchand Singh as DW-1.

4. After hearing both the counsel for the parties and appraising the entire evidence and material coming on record, the learned appellate court recorded the impugned judgment of conviction whereby the judgment of conviction dated 12.12.2001 and order on sentence of the even date, passed by the learned Judicial Magistrate Ist Class, Chandigarh, was maintained.

5. I have heard Mr. C.S. Jattana, Advocate for the petitioner-accused and Ms. Ashima Mor, Standing Counsel for the U.T., Chandigarh besides appraising the entire material coming on record.

6. At the very outset, learned counsel for the petitioner-accused contended that he does not contest the findings of the learned trial court recorded on the merits of the case. The petitioner is of the age of 72 years. He is weak and frail person. He can only walk with the help of 'walker' that too with great difficulty. He is a diabetic patient. He suffered gangrene on account of which two fingers of his foot had to be amputated. It was further contended that the petitioner-accused remained in custody for about 18 days. Now, no useful purpose would be served in keeping him in the jail. Rather, he would be great liability on the jail staff. He will be satisfied if his sentence is reduced to the one already undergone. However, the sentence of fine may be enhanced.

7. Ms. Ashima Mor, Standing Counsel for U.T., Chandigarh did not contest the aforementioned contentions of learned counsel for the petitioner seriously. She also feels satisfied about the handicap of the petitioner and his precarious condition.

8. The occurrence is of October, 1995. For the last 20 years, petitioner-accused has been suffering the agony of the trail. Learned counsel for the

petitioner-accused also contended that the petitioner has retired from the service on 30.09.2002. The legal heirs of the deceased have already obtained compensation from the MACT. Son of the deceased has also been given job as Lineman in the Electricity Department, as per learned counsel for the petitioner-accused which is not disputed by the other side. Petitioner-accused is of the advanced age of 72 years. He has also been suffering from various ailments and hardly walks with the help of walker. Under these peculiar circumstances of this case only, I am of the considered view that ends of justice would be met if his sentence is reduced to the one already undergone as no useful purpose would be served in sending the petitioner to jail. However, this should not be treated as precedent as this order is passed under the peculiar facts of this case alone.

9. For the reasons recorded above, maintaining the judgment of conviction dated 12.07.2006, the sentence of the petitioner is reduced to the one already undergone. However, the amount of fine for the offence under Section 304-A IPC is enhanced to Rs. 50,000/-, which shall be paid before the trial Court within two months from the date of this order and shall be paid to the legal heirs of the deceased.

10. Copy of this order be sent to the concerned Chief Judicial Magistrate.

(Raj Rahul Garg)
Judge

01.02.2016
Waseem Ansari