

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.3085 of 2014

DATE OF DECISION: August 04,2016

Anil Kumar

...Petitioner

versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE AJAY TEWARI

Present: Sh. Arun Sharma, Advocate for the petitioner.
Sh.Amrik Narwal, DAG, Haryana.

AJAY TEWARI, J.(ORAL)

Learned State counsel has placed on record the custody certificate of the petitioner by way of affidavit of Ashok Kumar, Superintendent, District Prison, Karnal. As per custody certificate, the petitioner has undergone almost three months and fifteen days of actual incarceration out of one year as on 7.7.2016.

This petition has been filed against the concurrent conviction of the petitioner under Sections 279, 304-A IPC. Admitted facts are that the canter driven by the petitioner collided with the parked canter from the rear side killing the conductor of the petitioner.

The case of the petitioner was that both the drivers were criminally negligent insofar as the other canter was parked wrongly and the petitioner was driving safely.

However, neither the prosecution nor the petitioner were able to lead cogent evidence to prove that the other canter was wrongly parked. In these circumstances, both the Courts below have convicted the petitioner. Learned counsel for the petitioner has argued that once the driver of the other canter was acquitted, he being co-accused, the same benefit had been granted to him.

The argument is fallacious. The petitioner and other driver are not co-accused in that sense. The allegation is that they were both independently criminally negligent. Had the petitioner proved the fact that the other canter was wrongly parked, then it would have been different but since no evidence was led by the petitioner and the evidence led by the prosecution did not prove the fact that the other canter was wrongly parked, no fault can be found with the conviction of the petitioner.

Faced with this situation, reliance has been placed upon the decision of Hon'ble the Apex Court in State of Punjab v. Saurabh Bakshi 2015 RCR (Crl.) 495 to argue that in that case only also person had died and sentence was reduced to six months. Learned State counsel has not disputed the custody period but opposes the prayer of the petitioner.

Be that as it may, keeping in view the circumstances and submissions as mentioned above, while maintaining the conviction, it would be in the interest of justice to reduce his sentence to the period of six months. Ordered accordingly. While admitting the revision petition, this Court vide order dated 12.12.2014 ordered for the release of the petitioner on bail. Accordingly, it is directed that now the petitioner is to surrender before the Chief Judicial Magistrate/Duty Magistrate, Karnal to serve the remaining part of sentence.

With the observations made above, the present revision petition is disposed of.

August 04, 2016
KD

(Ajay Tewari)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No