

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-305-2016 (O & M)
Date of decision:24.02.2016

Bikram Tandon ...Petitioner(s)

Versus

State of Punjab ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Gautam Bhardwaj, Advocate,
for the petitioner(s).

Mr. Ankur Jain, AAG, Punjab.

Rajan Gupta, J. (oral)

Petitioner Bikram Tandon had been convicted by the Judicial Magistrate Ist Class, Pathankot, under sections 279 and 304-A IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
279 IPC	To undergo R.I. for six months and to pay fine of ₹500/- and in default thereof to further undergo R.I. for 15 days.
304-A IPC	To undergo R.I. for one year and to pay fine of ₹2000/- and in default thereof to further undergo R.I. for two months.

The petitioner preferred appeal against the judgment of his conviction/sentence, which was dismissed by the Additional Sessions Judge, Pathankot, vide judgment dated 19.08.2015.

Feeling aggrieved against the judgments of both the courts below, the petitioner has approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that

he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 03.08.3008 at around 10.00 p.m., the complainant alongwith his brother namely Mandeep Singh and uncle namely Balwant Singh were going towards Permanand on motorcycle. At about 11.00 p.m., a truck bearing no.JK02G0027 came from the side of Dinanagar at a very high speed and in negligent manner and without blowing any horn struck into his brother, who was on separate motorcycle. Thereafter, the said truck struck one Mahindra Jeep and the truck was overturned. In the incident Mandeep Singh received multiple injuries and he died on the spot. Police came at the spot and the dead body of Mandeep Singh was taken to Civil Hospital, Pathankot. The name of the truck driver came to the knowledge of the complainant as Bikram Tandon. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 279 and 304-A IPC, charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as nine witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under sections 279 and 304-A IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Pathankot.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioner is, thus, affirmed.

Even counsel for the petitioner, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is a poor person and sole bread winner of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record affidavit of Arvinder Pal Singh Bhatti, PPS, Deputy Superintendent Sub Jail, Pathankot, according to which the petitioner had undergone actual custody of 08 months and 01 day as on 23.02.2016.

Incident occurred 07 years ago in which the accused was found guilty of offence under Sections 279 and 304-A IPC. Stand of the State is that in case this court intends to maintain the conviction of the petitioner and reduce the quantum of sentence to that already undergone, State would have no reason to stand in the way of such orders.

Thus, keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to the period already undergone by him. However, fine imposed shall remain intact.

The amount of fine if not already paid shall be deposited within three months from the date of receipt of certified copy of this order. However, in case fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

24.02.2016

sukhpreet

**(RAJAN GUPTA)
JUDGE**