

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 4396 of 2015
Date of decision : 15.01.2016

Akhilesh
....Petitioner

V/s

State of Haryana
....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rakesh Dhiman, Advocate for the petitioners.
Mr. Arun Luthra, AAG Haryana.

RAJAN GUPTA J.

Petitioner had been convicted by the Judicial Magistrate Ist Class, Gurgaon under sections 279, 304-A & 427 IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
279 IPC	To undergo R.I. for three months.
304-A IPC	To undergo R.I. for a period of one year.
427 IPC	To undergo R.I. for three months.

The petitioner preferred appeal before Additional Sessions Judge, Gurgaon against the judgment of his conviction/sentence. Vide judgment dated 20.10.2015, same was dismissed. It, however, directed that all the sentences shall run concurrently. Feeling aggrieved against the judgments of both the courts below, 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 24.02.2012, complainant Manoj Kumar made a complaint to the police that on the said date he was going to village Dujana district Jhajjar alongwith his sister in Eicher Canter no. HR-38-P-3081. His sister Manju Bala was sitting in front. At about 6.40 A.M. when they reached Artimis red light, Sector 51 Gurgaon, one college bus bearing registration no. HR-38 Q-6125 driven by the accused (petitioner herein) in a rash and negligent manner came at a high speed struck against their vehicle. Resultantly, his sister died on the spot and he sustained injuries. He was admitted to Artimis hospital. 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 279/337/304A/427 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 eight 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 279/304-A/427 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Gurgaon except in the modification as already indicated above.

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 them. 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 first offender and main 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 Ramesh Kumar, Deputy Superintendent, District Jail, Gurgaon

according to which petitioner had undergone sentence of three months and sixteen days including remission as on 14.01.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to seven months. But the petitioner is burdened with a fine of ₹20,000/- to be paid as compensation to the complainant. This amount would be in addition to the amount of compensation awarded to the complainant by the trial court. Ordered accordingly.

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 aforesaid 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.

January 15, 2016

Ajay

(RAJAN GUPTA)
JUDGE