

In the High Court of Punjab & Haryana at Chandigarh.

CRR-1846-2009 (O&M)
Date of decision: 20.03.2018

Khurshid

..... Petitioner

vs.

State of Haryana

..... Respondent.

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Sarfraj Hussain, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Nafeesh Ahmed, Advocate
for the complainant.

ARVIND SINGH SANGWAN,J.(ORAL)

Prayer in this petition is for setting aside the judgment of conviction dated 16.10.2006, vide which the petitioner was convicted under Sections 279 and 304-A IPC in FIR No. 2 dated 01.01.2000, Police Station Nuh and order of sentence dated 18.10.2006, vide which the petitioner was ordered to undergo rigorous imprisonment for a period of one and a half year and to pay a fine of ₹3,000/- for committing offence punishable under Section 304-A of IPC; in default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days; to undergo rigorous imprisonment for a period of 3 months and to pay a fine of ₹1,000/- for committing offence punishable under Section 279 of IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of 7 days as well as the judgment dated 21.07.2009 passed by the Additional Sessions Judge, Fast Track Court, Nuh, vide which the appeal filed by the petitioner was dismissed.

Brief facts of the case are that the petitioner has faced the trial

on the allegations that on 01.01.2000 while driving the dumper in a rash and negligent manner, he has caused injuries to one Sakeeb Ahmad and he succumbed to the injuries caused in the accident. The trial Court has convicted the petitioner and sentenced him to undergo rigorous imprisonment for a period of 1 year and 6 months and this judgment was upheld by the Lower Appellate Court.

The petitioner, on 15.02.2018, has made a statement that out of total sentence awarded by the trial Court, he has already undergone 3 months and 10 days of actual sentence and he does not wish to challenge the judgment of conviction and has only prayed for reduction of sentence and has offered to compensate the legal heirs of deceased.

On 05.03.2018, father of deceased, namely, Safayat Khan alongwith his counsel was present and stated that he is ready to accept the amount of ₹50,000/- and has no objection if the sentence awarded to the petitioner is reduced to the period already undergone. His statement alongwith his counsel was also recorded in the Court. In pursuance to the statement made by complainant-Safayat Khan on 05.03.2018 that he is ready to accept the amount of ₹50,000/- and has no objection that the sentence awarded to the petitioner may be reduced to the period already undergone by him, three demand drafts totalling ₹50,000/- have been handed over to learned counsel for the complainant and the photocopy of the same is placed on record.

Counsel for the petitioner submitted that the petitioner is the first offender and he was on bail during trial and during the pendency of the appeal before the Lower Appellate Court and his sentenced was suspended by this Court, vide order dated 04.11.2009. It is further submitted that

during intervening period for the last about 17 years, he has improved his behavior and has neither misused the concession of bail nor has repeated the offence. It is also submitted that the petitioner is the sole bread earner of the family and he has faced the protracted trial for the last about 17 years and has compensated the complainant by way of an additional amount of Rs.50,000/-.

Counsel for the petitioner has relied upon the judgment of this Court rendered in CRR No. 1254 of 2007, titled as ***Shamsher Singh vs. State of Haryana***, decided on 02.02.2017. The relevant part of this judgment is reproduced below:-

In view of the above and in the light of the fact that except for the present FIR, there is no other case registered against the petitioner and the offences in the present case are of the year 1999 and thereafter, the petitioner had undergone a protracted trial, after which he was convicted and sentenced on 07.12.2006/11.12.2006 and thereafter, suffered agony of the appeal and the present revision petition is also pending since the year 2007 i.e. it has been more than 18 years that the petitioner is facing the proceedings in the various Courts, this Court is of the considered view that the ends of justice would be best met if the petitioner is sentenced to the period already undergone by him.

Thus, the conviction of the accused is upheld and his sentence is reduced to the period already undergone by him. However, the fine as imposed upon the accused is increased to ₹50,000/- which shall be taken as compensation and disbursed to the legal heirs of deceased-Ishwar Singh to the extent of ₹30,000/- and to injured Ajit, Ramesh, Inder Pal and Sonu to the extent of ₹5,000/- each. The amount of ₹50,000/- be deposited

with the trial Court within a period of 3 months and 15 days from today, failing which, the present revision petition shall be deemed to have been dismissed. If any amount has already been deposited by the petitioner, the same shall be adjusted accordingly. On deposit so being made, trial Court will issue a notice to the legal heirs of deceased-Ishwar Singh and injured Ajit, Ramesh, Inder Pal and Sonu and disburse the amount to them forthwith.

The revision petition stands partly allowed in above terms.”

The learned State counsel has filed custody certificate dated 19.03.2018 and per the custody certificate, the petitioner has undergone 3 months and 15 days of actual sentence and is not involved in any other case.

After hearing learned counsel for the parties, I find merit in the present petition qua the sentence awarded by the trial Court. Since, the petitioner has faced the protracted trial for the last about 17 years; he has not misused the concession of bail/suspension of sentence in the intervening period; is not involved in any subsequent case and has paid an amount of Rs.50,000/- to the legal heir of the deceased, the conviction of the petitioner is upheld, however, sentence awarded to the petitioner vide order dated 18.10.2006 is reduced to the sentence already undergone by him.

A perusal of the custody certificate shows that the petitioner has already paid an amount of ₹4,000/- fine imposed by the trial Court.

In view of the above, this petition is disposed of.

20.03.2018
smriti

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No