

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2073-2009 (O&M)

Date of Decision:-10.05.2018.

Prem Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Subhash Godara, Legal Aid counsel for
the petitioner.

Mr. R.K. Doon, AAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

In the instant Criminal Revision Petition, petitioner has challenged the concurrent findings of the Trial as well as Appellate Court dated 04.01.2007 and 15.07.2009.

2.) Petitioner was a Driver by profession. While he was driving a jeep it was met with an accident with the 3-wheeler whereby caused injuries to some of the persons and 2 deaths have occurred. Arising out of this motor vehicle accident, an FIR No.97 dated 14.2.1998 was registered for the offences under Section 279/337/304-A IPC in Police Station Dharuhera and matter was investigated. Trial Court after examining the evidence convicted the petitioner on 04.01.2007. Thereafter, sentence was ordered on 06.01.2007 to the extent of one year and 66 months and fine of Rs.1,000/- for commission of offence punishable under Section 304-A IPC and sentenced to pay fine of Rs.500/- under Section 337 IPC. Conviction order

of the Trial Court was the subject matter before the Additional Sessions Judge in a criminal case No.36 of 2007/2009. It was decided on 15.07.2009 while upholding the conviction and sentence dated 04.01.2007 and 6.10.2007. Hence, the present Criminal Revision Petition.

3.) Learned counsel for the petitioner submitted that petitioner is a poor driver. Petitioner does not want to argue the matter on merits and does not challenge the concurrent findings. Learned counsel for the petitioner further submitted that petitioner wants to argue on the quantum of sentence. Due to accident occurred due to motor vehicle accident on 13.02.1998, petitioner has to undergo mental agony and so also he remained in custody during the period from 15.07.2009 to 07.12.2009 for a period of 4 months and 23 days whereas, the sentence is 1 year and 6 months so also he is first offender and sole bread-earner of the family. It was further submitted that in view of the facts and circumstances, petitioner be released on probation under Section 360 Cr.P.C. read with Section 4 of the Probation of Offenders Act, 1958 (for short 'the 1958 Act').

4.) *Per contra*, learned counsel for the respondents while resisting the petitioner's contention, submitted that it was a serious accident where number of persons were injured and 2 deaths have taken place. Therefore, petitioner is not entitled to any leniency so as to attract probation with reference to Section 360 Cr.P.C. read with Section 4 of the 1958 Act.

5.) Heard the learned counsel for the parties.

6.) No doubt it is true that it is motor vehicle accident where number of injuries have been caused to some of the persons and 2 deaths have taken place on 13.02.1998, at the same time, it is to be noted that

able to earn his livelihood properly as he was summoned on various occasions to the Court. Since, he has already suffered from 1998 to this day and the fact that he has been under judicial custody from 15.07.2009 to 7.12.2009 for about 4 months and 23 days and he being represented by counsel through Legal Aid Service, therefore, petitioner is entitled to release under Section 360 Cr.P.C. read with Section 4 of the 1958 Act. To that extent Trial Court order dated 04.01.2007 read with order dated 06.10.2007 is modified. Petitioner is ordered to be released on probation for a period of one year subject to his furnishing bonds to the satisfaction of the Trial Court. During this period, petitioner would keep peace and would not involve himself in any other criminal activity. In case he is found indulged, in that event he will be summoned to serve the rest sentence. Fine part of the sentence would remain intact.

7.) Criminal Revision Petition stands allowed in part.

(P.B. BAJANTHRI)
JUDGE

May 10, 2018.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.