

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Writ Petition No. 76 of 2018

Date of Decision: January 23, 2018

Nachhatar Singh

.....Petitioner

versus

Union of India and others

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Rapton, Advocate
for the petitioner

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Sudhir Mittal, J. (Oral)

The petitioner challenges the findings and sentence awarded by Summary Court Martial (Annexure P-1) whereby he has been sentenced to reduction to ranks and rigorous imprisonment for two months. He further challenges the order dated 15.06.2015 (Annexure P-2) whereby the petitioner has been transferred to pension establishment.

On 07.05.2012 at about 0615 hours a convoy of five vehicles left Srinagar Air Field Area to 3 Advance Base Workshop at Udhampur for repair/overhaul of artillery guns. On the same date at about 1600 hours the convoy reached Samroli near MS 81 and at the road bend, one mini bus was spotted which had met with an accident. The passengers were trapped in the mini bus. While attempting to cross mini bus the vehicle of the petitioner hit two civilians, one of whom died and the other was severely injured.

At the request of the Army authorities, the case was transferred by learned CJM to the Army for trial in accordance with the Army Act, 1950. As mentioned hereinabove, the petitioner was sentenced to reduction to ranks and rigorous imprisonment for two months in military custody. This sentence was

awarded because the petitioner pleaded guilty. After the plea of guilty was recorded, an opportunity was given to the petitioner to reconsider his plea as it appeared to the Court (Summary Court Martial) that the said plea was contrary to the statement recorded in the summary of evidence. The petitioner did not take this opportunity and confirmed his plea of guilty.

Learned counsel for the petitioner has not been able to point out any error in the procedure adopted by the Summary Court Martial. His only plea is that Section 81 of the Ranbir Penal Code applied in this case because the accident was caused on account of prevailing situation at the spot and, therefore, the defence of necessity was available to the petitioner. I am afraid that this plea can not be accepted after the petitioner has pleaded guilty before the Summary Court Martial.

In view of the above, there is no merit in this petition and the same is dismissed.

January 23, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No