

**(Via Video Conference)**

**CRR 640 of 2001**

**Harish Chandra Kahar**

**Vs.**

**The State.**

Mr. Prabir Majumder

... For the Petitioner.

Mr. Arijit Ganguly,  
Mr. Sandip Chakraborty

... For the State.

1. Earlier a report was called for from the Officer-in-Charge of Titagarh Police Station. The Officer-in-Charge, Titagarh Police Station has sent a report dated 21-06-2021 which reflects that in spite of repeated search, the present petitioner could not be traced. As such, they could not execute the order. However, all actions taken by the police authorities were recorded by a G.D. Entry at the police station.

2. The revisional application is taken up on merits of the case. the subject matter of the case reflects that the revisional application was preferred against a judgment and order dated 06<sup>th</sup> January, 2001 passed by the learned Additional Sessions Judge, Fourth Court, Nadia in Criminal Appeal No.14 of 2000 wherein the appellate Court was pleased to affirm the order of conviction and sentence passed by the learned SDJM, Krishnagar in Trial No.377 of 1998 arising out of G.R. No.1044 of 1996. The learned SDJM, after holding the petitioner guilty for commission of offence punishable under Sections 279 and 304A of the Indian Penal Code, was pleased to impose sentence of Rigorous Imprisonment for three months in respect of Section 279 of the Indian Penal Code and Rigorous Imprisonment for six months and to pay fine of Rs.500/-, i.d., to suffer Rigorous

Imprisonment for one month more for offence under Section 304A of the Indian Penal Code.

3. Mr. Prabir Majumder, learned advocate, appearing for the petitioner, vehemently argued that the evidence adduced by the prosecution in the instant case is insufficient for arriving at a conclusion of guilt. He stressed on the evidence of PW 5, namely, one Jamal Molla. According to him, the said witness has exposed the prosecution case specifically to the extent that the victim was himself responsible for the incident and the present petitioner who was driving the vehicle was nowhere responsible for the offence. Learned advocate further submits that there has been total non-appreciation of evidence by the learned trial Court and the appellate Court, without appreciating the ignorance of the trial Court, arrived at its conclusion of guilt erroneously.

4. Mr. Arijit Ganguly and Mr. Sandip Chakraborty, learned advocates, appearing for the State, supports the judgment and order so passed by the learned trial Court and affirmed by the learned appellate Court.

5. I have perused the judgment and order passed by both the courts below and I find that there is corroboration of the prosecution evidence so far as the core issue is concerned. The material irregularity (if at all) as pointed out by learned advocate for the petitioner does not touch the core issues so far as the process by which the learned courts below arrived at their finding of guilt and the Prosecution Witness No.5, on whom the petitioner intended to rely, was a seizure list witness who unnecessarily gave certain oral descriptions regarding the alleged offence. It is a settled principle of law that when two courts have scanned, scrutinized and appreciated the evidence, a higher forum could interfere only if any material illegality is shown from the

records of the case and only when a substantial question of law is raised which touches the root of the case. As such on thorough consideration, the grounds taken up by the petitioner do not appeal to this Court for interference so far as the guilt of the present petitioner is concerned. However, having regard to the period which has elapsed in the meantime, the sentence requires consideration.

6. Accordingly, the petitioner is directed to serve out the sentence of three months both on the count of Section 279 of the Indian Penal Code as well as Section 304A of the Indian Penal Code with the fine amount remaining unaltered. Accordingly, if the petitioner is on bail, his bail bond stands cancelled. Having regard to the conduct of the petitioner, the learned Chief Judicial Magistrate, Nadia at Krishnagar, is directed to exhaust the process of law for compelling the petitioner to serve out the sentence.

7. The revisional application is, accordingly, disposed of with only a part of the sentence which is modified above. The Lower Court Records, if any, should be sent down to the courts below. All connected applications, if any, are also disposed of.

8. All parties are to act on the server copy of this order duly downloaded from the official website of this Court.

**( Tirthankar Ghosh, J. )**