

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-444-2019 (O&M)
Date of decision: 22.07.2019

Sunil Kumar

....Petitioner

Vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. C.B. Goel, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Dheeraj Narula, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J.

Prayer in this revision petition is for setting aside the judgment of conviction dated 04.01.2017 passed by the trial Court, vide which the petitioner was held guilty for the offence punishable under Sections 279, 337, 304-A of the Indian Penal Code (for short 'IPC') and the order of sentence of even date, vide which he was ordered to undergo the following imprisonment: -

“1. The convict is sentenced to undergo rigorous imprisonment for a period of three months under Section 279 of IPC.

2. The convict is further sentenced to undergo rigorous

imprisonment for a period of three months under Section 337 of IPC.

3. The convict is further sentenced to undergo rigorous imprisonment for a period of two years under Section 304-A of IPC.”

It is further prayed for setting aside the judgment dated 14.02.1019 passed by the lower appellate, vide which the appeal filed by the petitioner was dismissed.

It is relevant to notice here that after filing of this petition, an application was filed by the petitioner that the matter has been amicably settled between the parties and considering the fact that the petitioner has undergone about 03 months of judicial custody, his sentence was suspended on 20.05.2019. It is also worth noticing that the case was referred to the Mediation and Conciliation Centre of this Court, where the petitioner and the complainant have appeared and a settlement/compromise was arrived at between them before the Mediator, which reads as under: -

“The following settlement has been arrived at between the parties hereto:

(i) That according to the compromise, first party is not interested to take any money from the second party in lieu of compensation and accepted the accident as an act of destiny.

(ii) That according to the compromise, first party has no objection if the impugned judgment and order dated 04.01.2017 passed by Ld. Chief Judicial Magistrate,

Sirsa and impugned judgment dated 14.02.2019 passed by Ld. Addl. Sessions Judge, Sirsa is set aside and FIR No.203 dated 26.11.2011 under Sections 279, 337, 304-A IPC, Police Station Ding, District Sirsa has been cancelled against the second party. The first party has no grievance against the second party and the first party is not interested any further conviction of the second party.

(iii) That the compromise is a result of sound mind, without any fraud and coercion and is an act of free will. The compromise has been effected keeping in view the fact that the first party accepted the death of Binder Singh @ Devender Singh as an act of destiny and also keeping in view the future of two minor child of the petitioner (Sunil Kumar) and due to the intervention of respectable and relatives of both the parties.

(iv) That the first party will present themselves to give any statement before the competent court of law to make statement in favour of the second party.

(v) That the above said compromise has been written with the consent of both the parties and the contents of the compromise has been read over in Hindi to both the parties and further understanding the same to be correct, both the parties put their signature/thumb impression on it.”

Learned counsel for the petitioner has submitted that the

petitioner is a govt. servant, who is working as Driver in Haryana Roadways and has adequately compensated the legal representatives of deceased Binder, who had met with an accident with the bus driven by him. It is further submitted that the petitioner is sole bread-earner of his family; he is not a previous convict; he is not involved in any other case; he is a young person aged about 35 years and has long career and therefore, the petitioner may be released on probation, considering the fact that he has already undergone 03 months of judicial custody.

Learned counsel has relied upon a judgment of this Court in **Paramjit Singh Vs. State of Haryana, 2011 (2) RCR (Crl.) 855**, wherein, while allowing a criminal appeal filed by the accused person, this Court has granted the benefit of Section 4 of the Probation of Offenders Act and has released the accused on probation with the conditions that he shall execute a bond for good behaviour for a period of two years and he shall be subject to the supervision of the Probation Officer, subject to the conditions laid down in Probation of Offenders Act. It was also held that since the accused was released on probation, the same may not affect on his service career, in view of Section 12 of the Probation of Offenders Act.

Learned State counsel, on the basis of custody certificate dated 13.07.2019 filed in the Court, has not disputed the fact that the petitioner is not involved in any other case and he has undergone 03 months of judicial custody.

Learned counsel for the complainant has also not disputed that the matter has been amicably settled between the parties and legal representatives of deceased have been adequately compensated, over and

above the compensation awarded by MACT, Sirsa.

After hearing learned counsel for the parties, I find merit in the present petition.

Since learned counsel for the petitioner has restricted his arguments for releasing the petitioner on probation of good conduct, considering the mitigating circumstances that he is not a previous convict; after registration of the FIR in the year 2011, he is not involved in any other case, though a period of 07 years has passed and has shown substantive improvement in his character and also considering the fact that he is sole bread-earner of his family and is a driver in Haryana Roadways, petitioner is released on probation of good conduct for a period of one year subject to supervision of the Probation Officer as per the conditions laid down in Probation of Offenders Act.

It is clarified that probation of the petitioner may not have any effect on his service career in view of the judgment of this Court in **Paramjit Singh's** case (supra) and in terms of Section 12 of Probation of Offenders Act.

With the aforesaid modifications, present revision petition stands disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

22.07.2019
vishnu

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