

252 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-10100-2020 in/and CRR-827-2020

Date of Decision: 20th April, 2022

State of Haryana

Petitioner

Versus

Satya Narayan Hooda and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

This revision petition is filed against order dated 4.7.2019 whereby the Additional Sessions Judge, Bhiwani discharged the respondents in case of FIR No. 113 dated 2.5.2018 under Sections 9 and 25 of the Prohibition of Employment as Manual Scavenger and their Rehabilitation Act, 2013, Section 304-A of the IPC, and Section 3 (i) (j) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at P.S. Civil Lines Bhiwani.

The revision petition is accompanied by an application for condonation of delay of 138 days.

Brief facts are that on 1.5.2018, intimation was received from General Hospital, Bhiwani that two persons i.e. Mukesh and Rajesh were brought dead. The police party went to the hospital. Amit s/o Mahabir presented an application to the ASI stating that contractor of Haryana Urban Development Authority (HUDA) took the complainant Mukesh and

Rajesh for working on the sewer line. They demanded gas masks and other safety equipment but the contractor did not provide required equipments, rather he pressurized them to enter the main hole. Mukesh and Rajesh entered the main hole and fell unconsciously due to the poisonous gas. While both were being rescued, in the meantime, the contractor fled. It was further alleged that due to the negligence of the contractor, SDO of the Department and Satya Narayan, the abovesaid incident occurred. The case was registered under Section 304-A of IPC and Section 3 (i) (j) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

During investigation, the petitioners were arrested and after completion of investigation, challan was presented.

The Sessions Court considering the facts and appreciating the evidence, held that it was the contractor who without providing safety equipment, pressurized the deceased to enter the main hole. The evidence was available that the work of the sewer was allotted to Sh. Manish Kumar contractor whereas Satya Narayan and Daya Kishan were posted as Pump Operator and Junior Engineer respectively. It was nowhere stated that the respondents were present on spot when the deceased lost their life and further that no action was taken against the contractor.

Considering the facts and after appreciating evidence in entirety, the petitioners were discharged. Hence, the present petition.

The State Counsel submits that the impugned order is erroneous. Merely non-presence of the petitioners on the spot was not enough to discharge them.

Supreme Court in ***Johar and others vs. M/s Mangal Prasad and another, 2008 AIR (Supreme Court) 1165*** held as under:-

“17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under Sections 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal.”

Again, Supreme Court in ***New India Assurance Co. Ltd. Vs. Krishna Kumar Pandey, 2020(1) Ori. Law Rev. 246*** held as under:-

“8. The scope of the revisional jurisdiction of the High Court (or Sessions Court) under Section 397 Cr.P.C., 1973 is limited to the extent of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed by an inferior Court. The revisional Court is entitled to look into the regularity of any proceeding before an inferior Court. As reiterated by this Court in a number of cases, the purpose of this revisional power is to set right a patent defect or an error of jurisdiction or law.”

The law is well settled that in the revision, the jurisdiction is limited. The State Counsel has not been able to point out any factual or legal infirmity in the impugned order much less perversity.

No ground is made out to interfere in the impugned order.

Criminal Revision is dismissed.

Since the main case is decided on merits the application for condonation of delay disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

20th April, 2022

anuradha

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No