

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.89 of 2023

Arising Out of PS. Case No.-188 Year-1998 Thana- SULTANGANJ District- Bhagalpur

Naresh Mandal Son of Ayodhya Mandal R/V- Asarganj Milki Tola, P.s- Bath,
Dist- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Adv.

For the Respondent/s : Mr. Mukesh Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 20-04-2023

Learned counsel for the petitioner has filed supplementary counter-affidavit in soft copy in this case. He seeks permission to file hard copy of this supplementary counter-affidavit.

Permission granted.

Heard learned counsel for the petitioner and learned counsel for the State.

Learned counsel for petitioner submits that the petitioner was accused in Sultanganj P.S. Case No. 188 of 1998 (G.R. Case No.2217 of 1998). Counsel submits that after contest, the petitioner was held guilty in the said case under Section 279 of I.P.C. for which six months imprisonment was granted. He was also convicted under Section 304(A) of the I.P.C. for which punishment was imposed for one year six months. It was directed that both punishment shall run concurrently.

Counsel further submits that being aggrieved and dissatisfied with the said order of conviction and punishment dated 08.09.2017 in G.R. Case No.2217 of 1998, petitioner has preferred appeal bearing Cr. Appeal No. 138 of 2017. In the said judgment passed in Cr. Appeal No. 138 of 2017, the judgment and conviction has been passed by the Original Court has been confirmed.

Counsel further submits that from the content of Section 304(A) of I.P.C., the minimum punishment is only 6 months or fine or both.

Counsel for the petitioner submits that petitioner is presently aged about 70 years and he is contesting this case since 1998 and continue in custody for about three and half months. He is old aged person but having valid license. Counsel submits that he was a bus driver and from the contents of the material on record, it transpires that the petitioner has not dashed the victim rather the victim was sitting on the roof and at the time of backing the said vehicle, the victim fell down from the hood of the bus and accident took place. He submits that this accident is not happened due to negligent driving rather due to negligent act of the victim itself.

Counsel for State submits that the truthfulness of

the case has been decided at Original Court level as well as Appellate Court level and both the Court has given concurrent finding on the conviction.

In this view of the matter, this Court is not inclined to interfere in the conviction and conviction granted to the petitioner has approved. But so far as the sentence part is concerned, it transpires to this Court that there is no direct involvement of the petitioner in the said crime rather it is a negligent act due to which this entire act took place.

In this view of the matter, Court is hereby minimizing the sentence of the petitioner for offence under Section 304(A) of I.P.C. for one and half months to six months only. The petitioner has already completed three and half month in custody. He is directed to be released after completion of six months.

With this direction, this Cr. Revision Application is hereby allowed.

(Dr. Anshuman, J.)

prakashmani/-

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CAV DATE	
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Transmission Date	