

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

311

CRR-2158-2007 (O&M)

Date of decision: 18.07.2023

Ajaib Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vipul Sharma, Advocate for
Mr. Ashwani Arora, Advocate for the petitioner

Mr. Dhruv Sihag, AAG Haryana

AMAN CHAUDHARY. J.

1. Challenge in the instant revision petition is to the judgment dated 08.10.2007 passed by the learned Additional Sessions Judge, Yamuna Nagar whereby the appeal against the judgment dated 01.11.2006 passed by learned JMIC, Jagadhari convicting and sentencing the petitioner for the offence under Sections 279, 337 and 304-A IPC, has been dismissed.

2. To put it briefly, the FIR stems from a medical ruqa received on 03.07.1999, from CHC, Radaur, regarding the admission of Satish Kumar, on having sustained injuries, when hit by a truck, while he was walking on the road. After the completion of the investigation, challan was presented. Upon which, the accused-petitioner was charge-sheeted under Sections 279/337/304-A IPC, to which he pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined as many as 7 PWs. Statement of the accused under Section 313 Cr.P.C. was recorded, wherein he denied the allegations levelled against him and pleaded innocence. However, no evidence was led by him in his defence.

6. The trial Court concluded that the prosecution has been able to bring home the guilt and accordingly convicted the petitioner-accused under Sections 279, 337 and 304-A IPC and sentenced him with rigorous imprisonment for a period of 4 months each under Sections 279 and 337 IPC and 2 years under 304-A IPC along with a fine of Rs. 1000/-. The sentences were ordered to be run concurrently.

7. Aggrieved convict-petitioner filed an appeal before the learned Additional Sessions Judge, Yamuna Nagar, which was dismissed vide impugned judgment dated 08.10.2007.

8. Hence, the present revision petition.

9. Learned counsel at the outset submits that the petitioner does not wish to challenge his conviction and prays for his release on probation in view of the peculiar facts that, the incident pertains to the year 1999 and he has faced protracted trial for 24 years; has already undergone about 4 months and 8 days out of the 2 years of sentence awarded; a first offender; belonging to the poor strata of the society; only one to sustain his family that includes his children.

10. Learned State counsel submits that the Courts below have rightly convicted the accused-petitioner on the evidence produced by the prosecution. However, on the grounds as stated by the learned counsel for the petitioner, he has no objection if the prayer made by the learned counsel for the petitioner is

allowed.

11. Heard and perused.

12. As per the testimony of PW-6, ASI Bhim Raj, the investigating officer, the driving licence and the registration certificate of the truck were recovered from the spot on the day of accident, on the basis of which, he was arrested. The accused-petitioner was the owner of the vehicle in question as well as the driver. The judgment of conviction passed by trial Court as affirmed by lower appellate Court, does not suffer from any infirmity or illegality.

13. Regarding the prayer of the petitioner for releasing him on probation, it would be worthwhile to make a reference to the judgments in the cases of **Aitha Chander Rao vs. State of A.P.**, 1981 (Supp) SCC 17, **A.P. Raju vs. State of Orissa**, 1995 Supp (2) SCC 385 and **Om Prakash vs. State of Haryana**, (2001) 10 SCC 477, and **State of Karnataka vs. Muddappa** 1999 SCC (Cri) 1046, wherein Hon'ble The Supreme Court extended the humanizing principle to a conviction where *mens rea* remains absent as in a case of rash and negligent driving under Section 279 read with Section 304-A IPC and convict is first-time offender, who has faced protracted trial, no purpose would be served to suffer the sentence imposed.

14. This Court in **Bishan Singh vs. State of Punjab**, CRM-M-1283-2008, decided on 27.01.2023, had released the petitioner on probation by observing the fact that after having faced criminal proceedings for more than 23 years, no useful purpose would be served by sending him back to jail, more so, when he was not involved in any other criminal case.

15. In **Paul George vs State of N.C.T. of Delhi** 2008 (4) SCC 185, the

appellant, who was Head Constable Driver, had come-face on the incoming traffic, which was the factor that caused the accident, Hon'ble The Supreme Court though found that it was clearly not a matter within the colour of duty, thus he was not be covered by Section 140 of Delhi Police Act, however, observed that ends of justice would be met, if he is directed to be released on probation, he having faced and fought the litigation tenaciously that lasted for 20 years and throughout had good service career, but for this one aberration.

16. This Court also in the case of **Ajaib Singh vs. State of Punjab and another**, CRR 2851 of 2009, decided on 03.03.2022, wherein the petitioner had been convicted under Sections 304-A and 279 and 427 IPC, granted probation as he had undergone a sentence of 3 months and 06 days out of 2 years of the sentence and faced the protracted trial for approximately 09 years.

17. In the case of **Shivani Sharma vs. State (NCT of Delhi)**, 2021(222) AIC 445, the conviction of the accused under Sections 304A and 279 IPC, was upheld but the sentence was modified and she was directed to be released for probation of 1 year, considering the fact that she has a clean record otherwise and litigation has been going on for more than 7 years. Likewise, in **Harendra Singh vs. State of Uttarakhand**, 2021 (114) ACrC 52, the revisionist convicted for the offence punishable under Sections 279, 304A, 337 and 338 IPC, being a first time offender, was released on probation to reform himself after having faced the trial for almost 11 years.

18. Reverting to the facts of the present case as regards the prayer made on behalf of the petitioner is concerned, this Court considering the mitigating circumstances and the judgments referred to above, finds that the ends of justice

would be adequately met if the petitioner is released on probation.

19. As a consequence to the foregoing, the present revision petition is hereby disposed of with a direction to grant probation to the petitioner for a period of one year, subject to the deposit of the fine as imposed by the trial Court, which shall be released to the LRs as compensation under Section 357 of CrPC, on the following conditions:-

- (1) He shall execute a bond for good behaviour with two solvent sureties in a sum of Rs.25,000/- which shall be executed before the trial Court within a period of one month from today.
- (2) The said bond shall be in force for a period of one year.
- (3) He shall be subject to the supervision of the Probation Officer and subject to the conditions laid down in the Probation of Offenders Act.

(AMAN CHAUDHARY)
JUDGE

18.07.2023
S.Sharma(syr)

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