

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

CRR-1157-2017 (O&M)

Date of Decision: April 11, 2023

Manpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. J.S. Sandhu, Advocate, for the petitioner.

Mr. Gurlal Singh Dhillon, AAG, Punjab.

SUDHIR MITTAL, J.

The petitioner was an employee of the erstwhile Punjab State Electricity Board. On the date of the incident i.e. 28.06.2008, he was on duty as SSA at Bhalaiana Centre where a 33 KV power house is located. A complaint was received from one Roor Singh son of Sarban Singh regarding a transformer set up in his field and it was found that jumper of 11KV line of Mallan Feeder was required to be repaired. Thus, supply to Mallan Feeder had to be discontinued. Sukhdev Singh, Lineman along with Vikas Kumar, Lineman and Bakhtaur Singh, Assistant Lineman went to carry out the necessary repairs. Permit No.2 had already been obtained by Gopal Singh, Lineman and the petitioner

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had been informed not to release the supply till the repair was completed. While Bakhtaur Singh, Assistant Lineman was repairing the jumper, electricity supply was released resulting in his death. Thus, FIR No.35 dated 28.06.2008 was registered at Police Station Kotbhai, under Section 304-A IPC.

2. The petitioner was tried and was convicted vide judgment of conviction dated 06.03.2014 and was sentenced to undergo RI for a period of two years and to pay compensation of Rs.30,000/- to the legal heirs of the deceased within six months failing which he had to undergo further imprisonment for a period of one month. Appeal against the said judgment was dismissed vide judgment dated 22.02.2017 passed by the Sessions Judge, Sri Muktsar Sahib. Thus, the present revision petition was filed.

3. Learned counsel for the petitioner has argued that deceased Bakhtaur Singh was not authorized to climb a transformer being an Assistant Lineman. By doing so, he had violated the rules and thus, the conviction of the petitioner was illegal. Moreover, an inquiry had been conducted by the department in which the petitioner was exonerated. This important evidence has been ignored by the Courts below. There is also evidence on record by way of affidavit of one Gopal Singh that the permit issued for carrying necessary repairs and for discontinuance of electricity supply had been cancelled before release of electricity. This has also been ignored by the Courts below on account of which miscarriage of justice has taken place. The petitioner has already undergone more than six months of

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actual custody and there is no other case pending/decided against him. In view of these submissions, the revision petition deserves to be allowed.

4. Learned State counsel has supported the judgment of conviction and order of sentence.

5. A perusal of the order of the Appellate Court shows that the arguments raised by learned counsel for the petitioner have already been considered and rejected by it. No error has been pointed out in the findings of the Appellate Court. In exercise of revisional jurisdiction, evidence cannot be re-appreciated and thus, the findings of the Appellate Court do not call for any interference.

6. The argument regarding one Gopal Singh having given an affidavit that the permit had been cancelled before release of electricity also cannot be accepted because learned counsel is not sure whether the said affidavit was ever produced on record and was brought to the notice of the Courts below.

7. No argument has been raised regarding reduction in the quantum of sentence. However, keeping in view the fact that the petitioner is a first offender and that death has been caused in the line of duty, the ends of justice would be duly served if his sentence is reduced. It also needs to be borne in mind that the petitioner must be having a family who are being adversely affected on account of his incarceration. Also, there was really no criminal intent involved and criminal proceedings were initiated only because the action amounted to an offence in law. Keeping all these factors in view, the sentence is reduced to rigorous imprisonment

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for a period of one year. The rest of the sentence imposed by the trial Court is maintained.

8. The petition is partly allowed in the aforementioned terms.
9. Pending miscellaneous application, if any, also stand disposed of.

April 11, 2023

'Ankur Goyal'

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Whether Reportable

Yes

Yes