

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2693-2022(O&M)
Date of Decision: 21.09.2023

Budhi Lal
Vs.
..... Petitioner

State of Haryana
..... Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Arjunveer Sharma, Advocate,
for the petitioner.

Mr.Vipul Sherwal, AAG, Haryana.

DEEPAK GUPTA, J.

In a criminal case arising out of FIR No.38 of 11.03.2013 registered at Police Station, Sector 56, Gurugram, petitioner was convicted by the Court of Id. JMIC, Gurugram vide judgment dated 12.06.2017 under Sections 279/337/338/304-A IPC. Vide separate order dated 14.06.2017 of Id. JMIC, Gurugram, petitioner was sentenced as under:

Offence/Under Section	Imprisonment	Fine	In default of fine imprisonment
279 IPC	Rigorous imprisonment for a period of six months	₹200/-	15 days
337 IPC	Rigorous imprisonment for a period of six months	₹200/-	15 days
338 IPC	Rigorous imprisonment for a period of one year.	₹200/-	15 days
304A IPC	Rigorous imprisonment for a period of two year.	₹200/-	15 days

2. Cumulatively, it was mentioned that in default of payment of fine, petitioner will have to undergo further imprisonment for a period of 15 days. There was no direction by Id. trial Court as to whether the

sentences awarded under Sections 279/337/338/304-A IPC were to run concurrently or consecutively.

3. Against the aforesaid judgment of conviction and order of sentence, appeal was filed. The same was dismissed vide order dated 05.11.2022, but Id. Appellate Court also failed to clarify as to whether the sentences were to run concurrently or consecutively.

4. Against the aforesaid concurrent finding of conviction and sentence, this Revision was filed.

5. Vide order dated 12.04.2023, it was ordered by a Coordinate Bench of this Court that the sentences as awarded to the petitioner in respect of four offences were to run concurrently in view of the law enunciated by Hon'ble Supreme Court in *M.S. Krishna Reddy Vs. state of Karnataka, 2016(1) RCR (Criminal) 373*. With that clarification, application bearing CRM-13848-2023 was disposed of.

6. Now coming to the merits of the main petition, today Id. counsel for the petitioner has made a statement that petitioner does not press this revision against the concurrent finding of conviction. However, Id. counsel has made a prayer to consider the petition against the order of sentence and to sentence the petitioner for the period already undergone by him.

7. Id. counsel contends that occurrence had taken place way back in March 2013; that petitioner has faced agony of proceedings for the last more than 10 years; that he has already undergone actual custody period of more than 10 months and the total sentence including remission for a period of one year; that claim petition under the MACT has already been disposed of and legal heirs of the deceased have been duly

compensated and so, the petitioner be sentenced for the period already undergone.

8. Ld. State counsel does not have any serious objection to the aforesaid prayer.

9. This Court has perused the impugned judgment of conviction as passed by the trial Court and as confirmed by the ld. Appellate Court. It is found that the judgments are based on proper appreciation of evidence on record. No illegality can be found therein. Considering the said fact and also considering the statement made by the petitioner, the petition against the judgment of conviction is hereby dismissed as withdrawn.

10. Coming to the order of sentence, the accident had taken place way back on 11.3.2013, which resulted in the death of Brij Bhan. The age of the convict-petitioner Budhi Lal, at the time of his conviction recorded in 2017, was 65 years, as per the custody certificate placed on record, which means that by now, he is more than 71 years of age. The custody certificate further reveals that petitioner has already undergone total sentence of 1 year 2 months by including remission and his actual custody period of 10 months and 16 days.

11. Having regard to all the facts and circumstances and the agony of trial already faced by the petitioner, this Court is of the view that it will not be in the interest of justice to send the petitioner behind bars at such a ripe age of more than 70 years. The sentence already undergone by him is considered to be sufficient to meet the ends of justice.

12. Consequently, the impugned order of sentence as affirmed by the appellate Court, but as clarified by this Court in its order dated

12.04.2023, is hereby modified to the extent that petitioner is sentenced to undergo imprisonment for the period already undergone by him.

Pending application(s), if any, shall stand disposed of.

(DEEPAK GUPTA)
JUDGE

21.09.2023

Vivek

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |