

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

102

CRA-S-1540-SB-2004 (O&M)
Date of decision: 20.01.2024

Desh Raj ...Appellant

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Gurinder Pal Singh, Advocate for the appellant.

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 15.07.2004, passed by the learned Additional Sessions Judge, Gurgaon, whereby the appellant was convicted and sentenced as under:

Offence u/s	Imprisonment	Fine	Default sentence
333 IPC	RI for three years	Rs.3000-	RI for six months
353 IPC	RI for one year	-	-

All the sentences were ordered to run concurrently.

2. The brief facts of the case are that on 29.08.2000 when Chattar Singh, Secretary, Regional Transport Authority, alongwith other members of staff was present at Jharsa Chowk, Gurgaon, for the purpose of inspection of vehicles, a Tata Sumo, being driven by the accused at a high speed, coming from the side of Rajiv Gandhi Chowk was signaled to stop but in vain and it hit Constable Banwari Lal, resulting in multiple injuries. The accused managed to flee towards Delhi. The injured was taken to the hospital. An FIR was registered against the accused.

3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused-appellant. On finding a prima facie case, charges under Sections 307/332/333/353 IPC were framed against him, to which he pleaded not guilty and claimed trial.

4. The prosecution, in order to bring home guilt of the accused, examined as many as 15 witnesses. On closure of their evidence, statement of the accused-appellant was recorded under Section 313 Cr.P.C. He denied all the incriminating circumstances that appeared against him in the prosecution case while pleading false implication by the police.

5. The learned trial Court after hearing the learned counsel for the parties and appreciating the evidence led, convicted and sentenced the accused as noticed above.

6. Aggrieved- accused is before this Court in appeal.

7. Learned counsel for the appellant, at the outset, gives up the challenge to his conviction and prays for reducing the sentence to the period already undergone, it being 6 months and 27 days, on account of the fact that he is a first offender; a poor person; except him there is none to earn the livelihood and never misused the concession of bail and has been facing the agony of protracted trial for the last 24 years.

8. On the other hand, learned State counsel submits that the trial Court after appreciating the evidence led by the prosecution, has rightly convicted and sentenced the appellant, therefore, prays for the dismissal of the present appeal. He, however, as per the custody certificate 18.01.2024, which is taken on record, affirms the non-involvement of the appellant in any other criminal case and the period undergone by him.

9. Heard the learned counsel on either side and perused the record with

their able assistance.

10. Evidently, PW-3 Constable Banwari Lal, who was the injured, has named and specifically ascribed the role of the appellant in his deposition, having caused injuries to him, which stands corroborated by PW-1 Chattar Singh, Secretary, RTA who had witnessed the same and PW4 Lal Singh who was a passenger in the offending vehicle at the time of the occurrence. There is no case of false implication made out. On going through the evidence on record, the prosecution has proved the case against the appellant. Thus, the trial Court has rightly convicted the appellant, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, his conviction is upheld

11. Insofar as the reduction of sentence to the period already undergone is concerned, a worthwhile reference can be made to the judgment in **Pooran Singh Adhikari vs. State of Uttarakhand**, 2010 SCC OnLine Utt 1900, wherein the conviction under Section 333 IPC was upheld by reducing the sentence to the period already undergone, keeping in view that the incident was 11 years old. In **Raghuveer Sharma vs. State of Rajasthan**, 2013 SCC OnLine Raj 1715, the sentence of the accused convicted under Sections 353 and 333 IPC was ordered to be reduced to the period, by considering that he was not a habitual offender, belonged to a respectable family and had children of marriageable age.

12. Furthermore, in **Gopal Singh vs. State of U.P.**, 2012 SCC OnLine Utt 3343 also, the appeal against conviction while being partly allowed, the conviction under sections 333 and 353 IPC was not reversed, however taking into consideration that the accused were first time convicts, the sentence of imprisonment was modified to the period already undergone.

13. This Court, considering the judgments referred to above and the mitigating circumstances as pointed out by learned counsel for the petitioners,

finds that the ends of justice would be adequately served if the sentence of

petitioners is reduced to the period already undergone by them, while keeping the fine intact.

14. The order of sentence dated 15.07.2004 is modified to the aforesaid extent and as such, the present petition stands partly allowed.

(AMAN CHAUDHARY)
JUDGE

20.01.2024
ankur

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No