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IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR-1504-2015 (O&M)
Date of Decision: 21.03.2024

KIRORIMAL

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON’BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Goyal, Advocate
for Mr. Mukesh Yadav, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This revision petition has been preferred against the judgment dated 23.04.2015 passed by learned Additional Sessions Judge, Narnaul vide which judgment of conviction and order of quantum of sentence dated 04.03.2014 passed by learned Sub Divisional Judicial Magistrate, Mohindergarh in FIR No. 282 dated 19.10.2008 registered at Police Station Kanina District Narnaul has been upheld. The petitioner was sentenced as under:

Offences under Sections	Period of Sentence	
279	Rigorous six months	Imprisonment for
304-A	Rigorous one year	Imprisonment for

2. In brief, facts of the prosecution case are that on 19.10.2008 when HC Janak Singh alongwith other police officials was returning from CHC, Mohindergarh to Police Station, Kanina after recording the statement of Budh Ram son of Jhuthar, resident of village Bhagdana and was present at

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Guda bus stand, then he received a telephonic message from MHC, Police Station, Kanina regarding admission of Rajiv son of Krishan, resident of village Aghiyar in CHC, Mohindergarh having been injured in a road side accident. Upon which HC Janak Singh alongwith other police officials reached at CHC, Mohindergarh where he was found to have been referred to SMS, Jaipur by the doctor and thereafter he reached at the spot near village Aghiyar where eye witness Surender @ Ranjit met him who got recorded his statement to the effect that on 19.10.2008 at 12.00 O'clock he alongwith his cousin Rajiv was going from their fields to their house and when they crossed periphery (bani) of village then a commander jeep being driven in a rash and negligent manner came and hit his cousin Rajiv directly whereas he escaped very hardly. After hitting his cousin jeep driver stopped his jeep on road where stones were laid down. On being noticed registration number was found IIC-35-8560. The driver was driving his jeep in a rush and negligent manner. When the driver started to flee away then the passengers boarded in it got jeep stopped but the driver fled away. His cousin sustained grievous injuries on his head as well as on foot. After arranging private vehicle he was brought to CHC, Mohindergarh from there due to serious injuries he was referred to SMS, Jaipur and his cousin Rajiv was brought to hospital by his brother Krishan and Munni Lal. Legal action was sought against the accused.

3. The petitioners were convicted vide judgement dated 04.03.2014 by the learned trial Court which has also been upheld by lower appellate Court on 23.04.2015.

4. Learned counsel for the petitioners contends that he is not assailing the impugned judgment of conviction dated 23.04.2015 on merits

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and restricts his prayer to modification of the order of quantum of sentence to that of the sentence already undergone by the petitioners as have already undergone a period of 02 months and 09 days, and is not involved in any other criminal activity.

5. Per contra, learned State counsel opposes the prayer of the petitioner as the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record which has also been upheld by the learned lower Appellant Court and as such, he does not deserve any leniency.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. In **Deo Narain Mandal v. State State of UP (2004) 7 SCC 257**, a three Judge bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two Judge Bench of the Hon'ble Supreme Court in **Ravada Sasikala v. State of AP AIR 2017 SC 1166**, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to

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the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

8. A perusal of the judgment of conviction passed by the learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, learned counsel for the petitioner/appellant has not assailed the judgment of conviction on merits, rather he has restricted his prayer only qua quantum of sentence.

9. The FIR in the present case was lodged on 19.10.2008 and the petitioner has been suffering the agony of trial since the last 16 years. Since his conviction, the petitioner has grown into a law-abiding citizen and desires to live a peaceful life. As per his custody certificate, he is not involved in any other case and has undergone actual sentence of 02 months and 09 days out of total sentence of 01 year in the instant case.

10. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners are reduced to the period already undergone by them.

11. Consequently, the present appeal is disposed of in the following terms:-

(i) The judgment dated 23.04.2015 passed by the learned Additional Sessions Judge, Narnaul affirming the judgment of conviction is upheld, however, the order of sentence dated 04.03.2014 is modified to the extent that the sentence of rigorous imprisonment for 01 year along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by him.

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(ii) Fine to the tune of Rs. 10000/- is imposed upon the petitioner. The petitioner is directed to deposit the amount of fine in the trial Court within one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the petitioner shall be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

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

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Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No