HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Revision Petition No. 1075/2006

Bhera Ram S/o Bhoma Ram, By caste Ja, R/o Village Shoda, P.S. Pipar City, District Jodhpur (Lodged in Central Jail, Jodhpur)

----Petitioner

Versus

State of Rajasthan.

----Respondent

For Petitioner(s)	:	Mr. J.S. Choudhary, Sr. Advocate assisted by Mr. Pradeep Choudhary
For Respondent(s)	:	Mr. Kuldeep Singh Kumpawat, Asst. to Mr. Deepak Choudhary, AAG

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

29/01/2025

1. By way of filing the instant criminal revision petition, a challenge has been made to the order dated 21.11.2006 passed by the learned Addl. Sessions Judge (Fast Track) Balotra, Barmer in Criminal Appeal No.45/2005 (Old No.39/02) whereby the learned appellate Court while rejecting the appeal filed against the judgment of conviction dated 26.11.2002 passed by the learned Addl. Judicial Magistrate Barmer, in Criminal Case No.407/1997 by which the learned trial Judge has convicted & sentenced the petitioner as under:-

Offence	**Sentence**	**Fine & default sentence**
Sec. 279 IPC	6 months' SI	Rs.500/- and in default of payment of fine, 15 days' S.I.
Sec. 304A IPC	1 Year's & 3 months' SI	Rs.1,000/- and in default of payment of fine, 15 days' S.I.
Sec. 184 of M.V. Act	3 Months' S.I.	-----
Sec. 132/187 of M.V. Act	1 month's S.I.	----
Sec. 134/187 of M.V. Act	1 month's S.I.	----

2. All the sentences were ordered to run concurrently and the period spent in judicial custody shall be adjusted in the original imprisonment.

3. The gist of the prosecution story is that on 19.08.1997 complainant Chhoga Ram submitted a written report at concerned Police Station to the effect that his father Pitha Ram was going to field from Dhani. When he was crossing the road, at that time a Roadways bus bearing registration No.RJ-04-P-0196 driven by petitioner rashly and negligently and hit his father, due to which his father fell down and succumbed to injuries. Upon the aforesaid information, an FIR was registered and after usual investigation, charge-sheet came to be submitted against the petitioner in the Court concerned.

4. The Learned Magistrate framed charges against the petitioner for offences under Sections 279 & 304-A of IPC and Section 184, 132/187 and 134/187 of M.V. Act and upon denial of guilt by the accused, commenced the trial. During the course of trial, as many as eight witnesses were examined and ten documents were exhibited. Thereafter, an explanation was sought from the accused-petitioner under Section 313 Cr.P.C. for which he denied the same and then, after hearing the learned counsel for the accused petitioner and meticulous appreciation of the evidence, learned Trial Judge has convicted the accused for offence under Sections 279 & 304-A of IPC and Sections 184, 132/187 and 134/187 of M.V. Act vide judgment dated 26.11.2002 and sentenced him as mentioned above. Aggrieved by the judgment of conviction, he preferred an appeal before the

Sessions Court, which was dismissed vide judgment dated 21.11.2006. Both these judgments are under assail before this Court in the instant revision petition.

5. Learned counsel Mr. Choudhary, representing the petitioner, at the outset submits that he does not dispute the finding of guilt and the judgment of conviction passed by the learned trial court and upheld by the learned appellate court, but at the same time, he implores that the incident took place in the year 1997. He had remained in jail for five days after passing of the judgment by the appellate Court. No other case has been reported against him. He hails from a very poor family and belongs to the weaker section of the society. He has been facing trial since the year 1997 and he has languished in jail for some time, therefore, a lenient view may be taken in reducing his sentence.

6. Learned Asst. to Addl. Advocate General though opposed the submissions made on behalf of the petitioner but does not refute the fact that the petitioner has remained behind the bars for five days and except the present one no other case has been registered against him.

7. Since the revision petition against conviction is not pressed and after perusing the material, nothing is noticed which requires interference in the finding of guilt reached by learned trial court, this court does not wish to interfere in the judgment of conviction. Accordingly, the judgment of conviction is maintained.

8. As far as the question of sentence is concerned, the petitioner remained in jail for some time and he has been facing the rigor for last 28 years. Thus, in the light of the judgments

passed by the Hon'ble Supreme Court in the cases of ***Haripada Das Vs. State of West Bangal*** reported in ***(1998) 9 SCC 678*** and ***Alister Anthony Pareira vs. State of Maharashtra*** reported in ***2012 2 SCC 648*** and considering the circumstances of the case, age of the petitioner, his status in the society and the fact that the case is pending since a pretty long time for which the petitioner has suffered some time incarceration and the maximum sentence imposed upon him is of one year and three months as well as the fact that he faced financial hardship and had to go through mental agony, this court deems it appropriate to reduce the sentence to the term of imprisonment that the petitioner has already undergone till date.

9. Accordingly, the judgment of conviction and sentence dated 26.11.2002 passed by the learned Addl. Judicial Magistrate Barmer in Criminal Case No.407/1997 and the judgment dated 21.11.2006 passed by the learned Addl. Sessions Judge (Fast Track) Balotra, Barmer, in Criminal Appeal No.45/2005 (Old No.39/02) are affirmed but the quantum of sentence awarded by the learned Trial Court is modified to the extent that the sentence he has undergone till date would be sufficient and justifiable to serve the interest of justice. The fine amount is hereby maintained. Two months' time is granted to deposit the fine before the trial court. In default of payment of fine, the petitioner shall undergo one month's simple imprisonment. The fine amount, if any, already deposited by the petitioner shall be adjusted. The petitioner is on bail. He need not to surrender. His bail bonds are cancelled.

10. The revision petition is allowed in part.

11. Pending applications, if any, are disposed of.

12. Record of the Courts below be sent back.

(MANOJ KUMAR GARG),J

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