

Balbir Singh Vs State of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: March 10, 2004

Acts Referred: Penal Code, 1860 (IPC) â€” Section 279, 337

Citation: (2004) 9 CriminalCC 626 : (2004) 3 RCR(Criminal) 310

Hon'ble Judges: Virender Singh, J

Bench: Single Bench

Advocate: R.K. Gupta, for the Appellant; Rattan Singh, AAG, Haryana, for the Respondent

Final Decision: Dismissed

Judgement

Virender Singh, J.

Balbir Singh son of Norang was convicted by the Judicial Magistrate 1st Class, Jind vide impugned judgment dated

14/15.9.1993 under Sections 279 IPC, 337 IPC and 304-A IPC and has been sentenced to undergo RI for three months u/s 279 IPC, RI for six

months u/s 337 IPC and RI for one year u/s 304-A IPC. All the sentences were ordered to run concurrently. Aggrieved by the impugned

judgment, he filed an appeal, which also stands dismissed vide judgment of learned Additional Sessions Judge, Jind dated 1.3.1995. Hence the

present revision.

2. Briefly, the case of the prosecution is that on 24.4.1988 at 11.05 AM, a bus bearing registration No. HRV-3755 driven by Inder Singh was

coming from Assandh to Jind. When it reached near Gangatehri Bus Stand, at a distance of 1-1/2 kilometers from village Alawa, a four wheeler

bearing registration No. HYK-6057, being driven by Balbir Singh, the present petitioner at a fast speed was coming from the side of Jind. All of a

sudden, the petitioner turned the four wheeler on its wrong (right) side and hit the bus from the front side. As a result of the impact, the passengers

of the four wheeler including the petitioner received injuries. Phool Pati, wife of Mange Ram subsequently succumbed to the injuries. The matter

was reported to the police by Inder Singh driver of the bus. The formal FIR was recorded. After completion of investigation, the petitioner was

challenged.

3. The petitioner was charged under Sections 279/337/304-A IPC by the learned trial Court. After appreciating the entire evidence, as stated

above, the petitioner was convicted and sentenced by the learned trial Court and his appeal was also dismissed by the learned Additional Sessions

Judge.

4. I have heard Mr. R.K. Gupta, learned counsel for the petitioner and the learned State counsel. With their assistance, I have gone through the

entire record.

5. Mr. Gupta fairly states that he does not assail the impugned judgments on merits and confines his arguments with regard to the quantum of

sentence only. The support of his contentions, the learned counsel contends that the petitioner has faced the agony of protracted trial for the last

about 16 years; that during this period, he has not indulged in any criminal activity; that at the time of conviction, he was having small children to be

brought up, who by now have grown up; that the petitioner is the sole bread winner of the family; that in case he is sent to jail once again after a

lapse of about 16 years, it would adversely affect his family; that the injured and the deceased, who were traveling in the four wheeler, were in fact

distantly related to the petitioner. In support of his contentions, the learned counsel relies upon a judgment of this Court rendered in Jagdish v.

State of Haryana, Criminal Appeal No. 708-SB of 1996, decided on 8.10.2003, in which the petitioner was released on probation.

6. Opposing the contentions raising by learned counsel for the petitioner, the learned State Counsel submits that the petitioner does not deserve

any leniency with regard to quantum of sentence.

7. Although the impugned judgments of the Courts below have not been assailed by the learned counsel for the petitioner, yet I have carefully

perused both the judgments. I do not find any illegality or irregularity in the same, which are otherwise based on proper appreciation of facts on

record. Consequently, the conviction as recorded by the learned trial court and upheld by the learned Appellate Court, is hereby affirmed.

8. So far as quantum of sentence is concerned, I find force in the submissions made by learned counsel for the petitioner. The case relates to the

year 1985. The petitioner has already faced the prick of protracted trial since then. At the time of trial, he was of the age of 26 years, as is evident

from the trial Court record (i.e. charge-sheet). The judgment in Jagdish's case (supra) squarely covers the instant case. In the said judgment, this

Court while relying upon the decisions rendered in Karamjit Singh Vs. State (Delhi Admn.), Sukhdev Singh v. State of Punjab, 1982 CAR 280

SC, Aitha Chander Rao v. State of Andhra Pradesh, 1982 CAR 5 SC, has released the accused-petitioner on probation.

9. Keeping in view the facts and circumstances of the present case and following the ratio of law laid down in the aforesaid judgments, while

upholding the conviction recorded by both the Courts below, I set-aside the substantive sentence imposed upon the petitioner and order him to be

released on probation u/s 4(1) of the Probation of Offenders Act, 1958 for a period of one year. The petitioner is directed to pay Rs. 20,000/- as

compensation to the legal heirs of Phool Pati (deceased) u/s 5(l)(a) of the Act. The said amount shall be disbursed to the legal heirs of the

deceased after giving notice to them. He shall execute the requisite bonds within three months from today before the trial Court undertaking that he

would not indulge in any crime during the period of probation. It is, however, made clear that the probation would be without supervision. In case

the petitioner does not deposit the amount of compensation, the present revision shall be deemed to have been dismissed and in that eventuality,

the petitioner shall have to undergo the complete substantive sentence as recorded by the learned trial Court and affirmed by the learned appellate

Court.

With the modification in the quantum of sentence as indicated above, the revision stands dismissed.