

**(2007) 01 P&H CK 0140**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal R. No. 2485 of 2006

Girdhari Lal

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** Jan. 23, 2007

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 279, 304A

**Citation:** (2007) 20 CriminalCC 615

**Hon'ble Judges:** Tej Pratap Singh Mann, J

**Bench:** Single Bench

**Advocate:** R.K. Shukla, for the Appellant; R.K. Nihalsinghwala, Dy. Advocate General, Punjab, for the Respondent

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**Judgement**

T.P.S. Mann, J.

The petitioner was tried by Sub-Divisional Judicial Magistrate, Amloh for offences under Sections 279 and 304-A IPC. Vide judgment dated 09.08.2004, the petitioner was convicted u/s 279 IPC and sentenced to undergo RI for six months. He was also convicted u/s 304-A IPC and sentenced to undergo RI for two years along with fine of Rs. 1,000/-. In default of payment of fine, he was directed to undergo further RI for one month. Both the sentences were ordered to run concurrently.

2. Against his conviction and sentence, the petitioner filed an appeal, which was dismissed by Sessions Judge, Fatehgarh Sahib on 22.11.2006, whereby his conviction and sentence as recorded by the trial Court were maintained. Hence the present revision.

3. The revision came up for motion hearing before this Court on 05.12.2006 when notice was issued to Advocate General. Punjab regarding quantum of sentence only.

4. Learned Counsel for the petitioner contends that the accident in question had taken place in the year 1995. The petitioner is not a previous convict. His wife is

suffering from heart disease and requires Cardio-Thoracic surgery. She has been advised double valve replacement as per the medical certificate issued by Government Medical College and Hospital, Jammu on 28.11.2006. The petitioner is the only bread-winner of the family. There is no other person, who can look-after his family and small children. Besides, legal heirs of deceased Parminder Singh have already been awarded compensation to the tune of Rs. 1,44,000/- by the Motor Accident Claims Tribunal, Fatehgarh Sahib. Also, the petitioner has been in custody for a period of more than two months. Accordingly, a prayer has been made for the release of the petitioner on probation instead of keeping him behind the bars to undergo the sentence imposed upon him.

5. Learned State counsel has submitted that the petitioner is not entitled to the benefit of probation as on account of his rash and negligent driver, an innocent life has been lost, it has also been submitted that the petitioner has been adequately sentenced.

6. I have heard Learned Counsel for the parties and gone through the material placed before me.

7. The petitioner has been facing protracted proceedings for the last about 12 years. He was initially convicted and sentenced by the trial Court on 09.10.2000. His appeal against his conviction and sentence was allowed by Additional Sessions Judge, Fatehgarh Sahib on 07.05.2003 and the case was remanded to the trial Court to frame the charges afresh. Thereafter, the petitioner was convicted by the trial Court on 09.08.2004. His appeal against his conviction and sentence was dismissed by learned Sessions Judge, Fatehgarh Sahib on 22.11.2006. After the dismissal of his appeal, the petitioner is behind the bars for the last about two months.

8. The petitioner has been described in the impugned judgment of conviction and sentence passed by the trial Court to be 38 years of age. There is no material available on the file to show that the petitioner had ever been earlier involved in any case of accident. In fact, he is a first offender.

9. Smt. Babli Devi, wife of the petitioner, has been advised by the medical authorities to go in for double valve replacement. According to the petitioner, he is sole breadwinner for the family and there is no other person, who can look-after his family consisting of his wife and small children.

10. The family of the victim has already been adequately compensated as their claim petition stands granted.

11. Considering all the facts and circumstances of the case, I deem it a fit case to order the release of the petitioner on probation instead of keeping him behind the bars for serving the sentence imposed upon him. Accordingly, the petitioner is ordered to be released on probation on his furnishing personal bonds in the sum of Rs. 20,000/- for a period of two years with one surety of the like amount to the

satisfaction of Chief Judicial Magistrate. Fatehgarh Sahib. During the said period, the petitioner shall be of good behavior and not indulge in any crime. On his furnishing the necessary bonds, the petitioner shall be set at liberty forthwith, provided he is not undergoing imprisonment for any other offence. In case it is found that the petitioner has mis-used any condition, he will be liable to be taken into custody to serve the sentence imposed upon him by the lower Court in this case.

12. With the above modification in the sentence, the revision is disposed of.