
Kehar Singh Vs State of Himachal Pradesh

Criminal Revision No. 5 of 2006

Court: High Court of Himachal Pradesh

Date of Decision: Sept. 18, 2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) &” Section 313#Penal Code, 1860 (IPC) &” Section 279, 337, 338

Hon'ble Judges: Sanjay Karol, J

Bench: Single Bench

Advocate: Anand Sharma and Kehar Singh in person, for the Appellant; Rajinder Dogra, Additional Advocate General, for the Respondent

Judgement

Justice Sanjay Karol, Judge

1. Matter was taken up at 10 a.m. On 24.7.1995, petitioner (accused) was found to have committed offences, punishable under Sections 279,

337 and 338 of the Indian Penal Code. On the basis of complaint made by Shri Aditya Gupta (PW-1), FIR No. 127/95, dated 24.7.1995 (Ex.

PW-7/A), under Sections 279, 337 of the Indian Penal Code, was recorded at Police Station Dalhousie, District Chamba, Himachal Pradesh.

Matter was investigated by ASI Shri Krishan Gopal (PW-8). Investigation revealed that three persons, namely Shri Aditya Gupta, Smt. Sudesh

Gupta and Shri Vipin Mahajan received simple as well as grievous injuries, at the time when accused was driving vehicle No. HP-47-0042, in a

rash and negligent manner.

2. Investigation revealed complicity of the accused to the alleged crime. Hence, challan was presented in the Court for trial. Notice of accusation

for having committed offences, punishable under Sections 279, 337 and 338 of the Indian Penal Code was put to the accused to which he pleaded

not guilty and claimed trial.

3. In order to establish its case, prosecution examined as many as eight witnesses and statement of the accused, u/s 313 of the Code of Criminal

Procedure was also recorded, in which he pleaded false implication.

4. Appreciating the material on record, Court of Sub Divisional Judicial Magistrate, Dalhousie, vide judgment dated 24.10.2003, in Criminal Case

No. 14-II of 1996, titled as State versus Kehar Singh, convicted the petitioner (accused Kehar Singh) and sentenced him to undergo simple

imprisonment for three months for offence u/s 279 of the Indian Penal Code; simple imprisonment for three months for offence u/s 337 of the

Indian Penal Code; and simple imprisonment for six months for offence u/s 337 of the Indian Penal Code.

5. Petitioner-accused assailed the same by filing an appeal. But however, such findings of fact and judgment of conviction and sentence were

upheld by the Sessions Judge, Chamba, in terms of judgment dated 28.11.2005, passed in Criminal Appeal No. 38 of 2003, titled as Kehar Singh

versus State of Himachal Pradesh. Hence, the present Revision Petition.

6. The matter was heard for some time. However, after some time accused did not press the same. Though an attempt was made to show that the

driver of the vehicle, with which collision of the bus driven by the accused, took place was also at fault, but however in view of the concurrent

findings of fact rendered by the Courts below and the fact that such findings are not being assailed, I need not go into this aspect.

7. Petitioner is present in the Court. Though he does not assail the order of conviction, but however pleads that considering the long time gap

between the occurrence of the incident and the other attending circumstances, a lenient view be taken while imposing penalty of sentence. He also

submits that he is 52 years of age and is not keeping well and has four daughters and a son, out of which one daughter is married and the other

three daughters and the son are school going, who are also living with him. He submits that he is the sole bread earner of the family and that his

earning is not sufficient enough for the family to make both ends meet. He also submits that it is his first offence and has never violated any law

either prior to the occurrence of the incident in question or thereafter. Considering the long passage of time and keeping in view the overall

attending circumstances, as noticed herein above, I am of the considered view that a lenient view is ought to be taken in the matter and interest of

justice would be served if the sentence of imprisonment, ranging from three months to six months so awarded by the trial Court, is reduced till the

rising of Court. Ordered accordingly. Hence, order of conviction stands as it is and the order with regard to sentence as passed by the Courts

below is modified accordingly.

With the aforesaid observations, present Revision Petition stands disposed of.