
(2003) 1 MPHT 39**Madhya Pradesh High Court (Indore Bench)****Case No:** Criminal Revision No. 521 of 2002

Satyanarayan

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision: Sept. 4, 2002**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 360, 361
- Penal Code, 1860 (IPC) - Section 279, 304A, 337
- Probation of Offenders Act, 1958 - Section 12, 4

Citation: (2003) 1 MPHT 39**Hon'ble Judges:** S.L. Kochar, J**Bench:** Single Bench**Advocate:** Sanjay Sharma, for the Appellant; Girish Desai, Dy. A.G., for the Respondent

Judgement

S.L. Kochar, J.

This criminal revision, has been preferred by the applicant against the judgment dated 15th July, 2002 rendered in Criminal Appeal No. 197/2000 by ASJ Manasa, arising out of the order dated 29th July, 2000 passed in Criminal Case No. 153/97 by the learned Judicial Magistrate, First Class, Manasa, thereby convicting the applicant for the offences under Sections 279, 337 and 304A, IPC and sentencing him 3 months" RI with fine of Rs. 300/-, 6 months" RI with fine of Rs. 500/- and 1 year RI with fine of Rs. 500/- respectively. All the sentences were directed to run concurrently, in default of payment of fine, further, SI for 3 months on each count.

2. Facts of the case lie in a narrow compass are that on 4th July, 97, complainant Ramgir was sitting in his betel shop. His son Tejgir @ Teji and one Ramcsh Soni were sitting on a bench nearby. At the relevant time, Commander Jeep bearing Registration No. MP-14B/8696 came from the direction of Manasa being drive rashly and negligently and dashed betel shop. In the said accident, complainant Ramgir and Ramesh sustained injuries. Complainant Ramgir lodged FIR Exh. P-1 at the police station. They were taken

to the hospital at Kukdeshwar where injured persons were examined and they were referred to Primary Health Centre, Manasa. On the way, Tejgir succumbed to his injuries.

3. After usual investigation, charge-sheet was filed against the applicant. The applicant denied charges. Therefore put to trial.

4. Learned Trial Court, after examining prosecution witnesses and on hearing both the parties, convicted the applicant and sentenced as mentioned above, against which the applicant went up in appeal and the same has also been dismissed.

5. Learned Counsel for the applicant does not wish to press this revision on merit. Even otherwise, there is no substance in the revision. There is concurrent findings of facts arrived at by both the Courts below. This Court has gone through the entire record as well as both the judgments and finds no illegality, irregularity or impropriety in the judgments passed by the Courts below.

5. Learned Counsel for the applicant submitted that the applicant is a teacher/Government servant and on the date of incident his age was 53 years. By now he must be aged about 58/59 years and is at the verge of retirement. If his conviction is maintained, he will have to face lot of problems and difficulties in getting pension and other pensionary benefits. He is the sole bread winner of his family. The applicant is in jail from 25th July, 2002. During the period of trial, appeal and this revision, he is suffering mental, physical and financial as also social loss in his reputation in the eye of the Society. The applicant is the first offender. During the period of incarceration, there is no contrary report about his conduct. The Counsel further contended that in the present case, the question of identity is also involved because at the time of alleged incident on the scene of occurrence there was absolutely no light and the incident has taken place in the night at about 8.30 p.m.

6. Learned Counsel has also apprised this Court about the compensation granted by the Claims Tribunal. He submitted that Legal Representatives of the deceased have received fairly a good amount of compensation and also filed appeal vide M.A. No. 231/2000 for enhancement of compensation amount. To substantiate all these facts learned Counsel has filed an affidavit of the wife of the applicant as well as copy of memo of appeal filed by L.Rs. of the deceased before the High Court. Relying on the judgment passed by the Supreme Court in Aitha ChanderRao v. State of Andhra Pradesh and AP. Raju v. State of Orissa [1995 SCC (Cr.) 675], prayed for release of the applicant u/s 4 of the Probation of Offenders Act, 1958.

7. Mr. Girish Desai, learned Deputy Advocate General appearing for the State, has no serious objection on the question of release of the applicant on probation.

8. Having heard learned Counsel for the parties and having regard to the facts and circumstances of the case, this Court is of the opinion that the applicant is by now 58/59 years of age. He is a teacher. The affidavit filed by the wife of the applicant is showing

that he is prominent member of the Joint Hindu family and the whole family is depending on his earnings. If his conviction and sentence are maintained, he will be terminated from service, which will affect on his pensionary benefits.

9. Looking to these special features of the case this Court deems it just and proper and in the interests of justice to grant benefit of Section 4 of the Probation of Offenders Act/Sections 360 and 361, Cr.PC.

10. The applicant shall execute bond of Rs. 2000/- (Rupees two thousand only) for maintaining peace and good behaviour for a period of one year and if he violates any of the conditions of the bond, he will be called upon to surrender and serve out remaining part of sentence. The applicant is also directed to pay compensation of Rs. 5000/- to the L.Rs. of the deceased as per Provisions u/s 357(3), Cr.PC.

11. Learned Counsel for the applicant submits that the applicant has already deposited Rs. 1300/- towards fine amount. If so, this amount shall be deducted from the compensation of Rs. 5000/- and now the applicant is required to pay Rs. 3,700/- towards compensation amount. On doing so, Trial Court is directed to release the applicant forthwith.

12. It is further clarified that as the applicant has been released on probation, this may not affect the service career in view of Section 12 of the Probation of Offenders Act.

13. In the terms indicated above, this criminal revision stands disposed of.

C.C. be given on usual charge in 7 days.