

(2002) 01 RAJ CK 0176

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 656 of 2001

Mohan Lal

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 11-01-2002

Acts Referred:

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

Citation : (2002) 1 WLN 693

Hon'ble Judges : Sunil Kumar Garg, J

Bench : Single Bench

Judgement

Sunil Kumar Garg, J.—This revision petition has been filed by the accused petitioner against the judgment dated 2.8.2001 passed by the learned Special Judge, SC and ST (Prevention of Atrocities) Cases and Additional Sessions Judge, Bikaner in criminal appeal No. 48/2000 by which the learned Special Judge upheld the conviction of the petitioner for offence u/s 279 and 304-A I.P.C. passed by the learned Chief Judicial Magistrate, Bikaner, but he reduced the sentence passed by the learned Chief Judicial Magistrate, Bikaner as under:

Section Sentence awarded Sentence reduced by Special by CJM, Bikaner Judge, SC and ST Cases, Bikaner 279 IPC 3 months" S.I. 3 months S.I. 304-A IPC 2 years" S.I. 1 year"s S.I. and a fine of Rs. 500/- in default to further under go.... imprisonment

Both the courts below ordered the sentences to be run concurrently.

2. It arises in the following circumstances:

(i) On 4.3.1990 after receiving telephonic message, P.W. 8 Hari Singh ASI, Police Station Sadar, Bikaner proceeded towards the spot where the accident took place, where P.W. 3 Kishan Lal gave Parcha Bayan Ex.P/1 to the effect that on that day at about 1.30 p.m. he was going on scooter and when he reached near "Tiraha" of Medical Hostel, a truck No. RSF 9991 driven by the accused petitioner came from the side of Shivbari and the truck was being driven by the accused

petitioner rashly or negligently and dashed against Puran Mal (hereinafter referred to as the deceased) who was riding on a bicycle, due to which he died.

3. On this Parcha Bayan Ex.P/1, police chalked out regular FIR Ex.P/5 and started investigation.

4. The post mortem of the body of the deceased was got conducted and the same is Ex.P/5.

5. After investigation police filed challan against the accused petitioner for offence u/s 279 and 304-A I.P.C.

6. On 12.7.1990, the contents for offence Under Sections 279 and 304-A I.P.C. were read over to the accused petitioner who denied the same and claimed trial.

7. After conclusion of the trial the learned trial Magistrate vide his judgment and order dated 12.12.1996 convicted the accused petitioner for offence Under Sections 279 and 304-A I.P.C. and sentenced him as stated above.

8. Against the judgment and order dated 12.12.1996 passed by the learned Magistrate, the accused petitioner preferred an appeal and the appeal filed by the accused petitioner was partly allowed by the learned Special Judge and conviction of the accused petitioner for offence Under Sections 279 and 304-A I.P.C. was confirmed by the learned Special Judge, but order of the sentence awarded by the learned Magistrate was modified as stated above.

9. In this revision petition the learned Counsel for the accused petitioner has not challenged the findings of conviction for offence u/s 279 and 304-A I.P.C. recorded against the accused petitioner by the learned Chief Judicial Magistrate, Bikaner vide judgment dated 12.12.1996 and affirmed in appeal by the learned Special Judge, SC and ST (Prevention of Atrocities) Cases, Bikaner vide judgment dated 2.8.2001 but it has been argued on behalf of the accused petitioner that since the accused petitioner is in jail since 2.8.2001 and he has been in jail for more than 5 months therefore it would be just and proper to reduce the sentence of accused petitioner to the period already undergone by him. In this regard, the learned Counsel for the petitioner has placed reliance on a judgment reported in 2001 Cri.L.j. 212-Daulat Singh v. State of Rajasthan.

10. I have heard both and gone through the record of the case.

11. Since the findings of conviction recorded by both the courts below have not been challenged in this revision petition, therefore, this revision petition against conviction of the accused petitioner for offence u/s 279 and 304-A I.P.C. is liable to be dismissed.

12. On point of sentence, The learned Counsel for the petitioner has placed reliance on the judgment Daulat Singh (Supra) In that case, looking to the fact that the accused petitioner was convicted only for six months for offence u/s 304-A I.P.C. and the incident of that case took place 14 years back and he has remained in jail for five months, therefore, he was released for the period

already undergone. But in the present case, the incident took place in the year 1990 and the accused has been sentenced by the appellate Court for a period of one year and looking to the facts and circumstances of the present case, it would be just and proper to sentence the accused petitioner for 7 months" S.I. in place of one year"s S.I. for offence u/s 304-A I.P.C. and this would meet the ends of justice.

13. For the reasons mentioned above, this revision petition is disposed of the following manner:

The revision petition filed by the accused petitioner Mohan Lal against his conviction is dismissed and his conviction for offence Under Sections 279 and 304-A I.P.C. recorded by the learned Chief Judicial Magistrate, Bikaner vide judgment dated 12.12.1996 and affirmed in appeal by the learned Special Judge SC and ST (Prevention of Atrocities) Cases, and Additional Sessions Judge, Bikaner vide judgment dated 2.8.2001 is maintained.

However on the point of sentence, this revision petition is partly allowed in the manner that sentence awarded to the accused petitioner for offence u/s 304-A I.P.C. is reduced to 7 months" S.I. in place of 1 year"s S.I. and the judgment dated 2.8.2001 passed by the learned Special Judge, SC and ST (Prevention of Atrocities) Cases and Additional Sessions Judge, Bikaner is modified to the above extent. The rest judgment dated 2.8.2001 passed by the learned Special Judge SC and ST (Prevention of Atrocities) Cases and Additional Sessions Judge, Bikaner is maintained.