

(2013) 04 SHI CK 0076

In the High Court Of Himachal Pradesh

Case No : Criminal Revision No. 108 of 2006-E

Radhey Shyam

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 09-04-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 397, 401, 482

Motor Vehicles Act, 1988 — Section 187

Penal Code, 1860 (IPC) — Section 201, 279, 337, 338

Citation : (2013) 04 SHI CK 0076

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Sanjeev Kuthiala, for the Appellant; R.S. Verma, Additional Advocate General and Mr. R.M. Bisht, D.A.G., for the Respondent

Judgement

Sanjay Karol, J.—Accused-petitioner Radhey Shyam has been convicted by the Courts below for having committed offences punishable under Sections 279, 337 and 338 of the Indian Penal Code, 1860 and Section 187 of the Motor Vehicles Act. Assailing the judgment dated 3.7.2003, passed by learned Sub Divisional Judicial Magistrate, Nalagarh, District Solan, in Criminal Case No. 4/2 of 2000, titled as State of Himachal Pradesh versus Radhey Shyam, as affirmed by the learned Additional Sessions Judge, Solan, vide judgment dated 27.7.2006, passed in Criminal Appeal No. 20-NL/10 of 2003, tilted as Radhey Shyam versus State of Himachal Pradesh, the accused-petitioner has filed the present Revision Petition under the provisions of Sections 397 and 401 read with Section 482 of the Code of Criminal Procedure, 1973.

2. Briefly stated the facts of the case are that on 3.8.1999, when Shri Atma Ram (PW-2) was traveling with Shri Gian Chand (PW-3) on his Scooter, they were hit by the Tempo driven by the accused-petitioner. As a result of the accident, complainant Shri Atma Ram sustained injuries. Matter was reported to the police, on the basis of which FIR No. 101/99 (Ex. P-12), dated 3.8.1999, under Sections 279, 337 and 201 of the Indian Penal Code, was registered at Police Station,

Barotiwala, District Solan. Injured were got medically examined. With the completion of investigation, challan was presented in the Court for trial.

3. Notice of accusation was put to the accused for having committed offences punishable under Sections 279 and 337 of the Indian Penal Code and Section 187 of the Motor Vehicles Act to which he did not plead guilty and claimed trial.

4. In order to establish its case, prosecution examined as many as eleven witnesses. Statement of the accused-petitioner u/s 313 of the Code of Criminal Procedure was also recorded.

5. After trial, accused-petitioner was convicted for having committed offences punishable under Sections 279 and 337 of the Indian Penal Code and Section 187 of the Motor Vehicles Act. He was sentenced to undergo simple imprisonment for a period of three months each and pay fine of Rs. 500/- each for having committed offences punishable u/s 279, 337 of the Indian Penal Code; and also undergo simple imprisonment for a period of one month and pay fine of Rs. 500/- for having committed an offence punishable u/s 187 of the Motor Vehicles Act. All the sentences of imprisonment have been ordered to run concurrently. The lower Appellate Court has affirmed the judgment of conviction and sentence passed by the trial Court.

6. After having heard the matter for some time, Mr. Kuthiala, learned counsel for the petitioner, fairly, under instructions from the petitioner, does not challenge the findings and judgment of conviction. However, considering the long time gap and the fact that the offence took place at the time when petitioner was very young, i.e. 19 years of age, and that now he has his family to support, it is urged that a lenient view be taken and instead of sending the accused-petitioner behind bars, at this stage, the amount of fine be increased.

7. As already noticed, accused-petitioner stands convicted and sentenced for the charged offences, after he was given adequate opportunity of leading his defence.

8. The incident took place in the year 1999. At that time, petitioner was just 19 years of age. Since then the matter is pending before various Courts. Today, the petitioner is married and has his family to support and take care of. Petitioner has also maintained good conduct all along. This is his first offence and has not violated any law thereafter.

9. Taking into consideration the overall attending circumstances and a holistic view thereof, I am of the considered view that interest of justice would be met if at this stage the quantum of sentence is reduced and modified. Accordingly, sentence of imprisonment, in relation to all the charged offences is modified and set aside, but however, with regard to each of the offences, i.e. under Sections 279, 337 of the Indian Penal Code and Section 187 of the Motor Vehicles Act, for which the petitioner stands convicted, he shall pay fine of Rs. 1,000/-, Rs. 1,000/- and Rs. 1,000/-, respectively. Petitioner, through his learned counsel, undertakes to deposit the same in the trial Court within a period of three months

from today. It is clarified that if the amount is not so deposited the original order or sentence shall remain, which the petitioner, through his counsel, undertakes to serve. Decision to reduce the sentence, in my considered view, is in the interest of justice, parties and is expedient, considering the given facts and circumstances. Ratio of law laid down by the Apex Court in A.P. Raju versus State of Orissa, 1995 Supp (2) SCC 385; Paul George Vs. State of N.C.T. of Delhi, ; B. Nagabhushanam Vs. State of Karnataka, Manish Jalan Vs. State of Karnataka, ; and Puttaswamy Vs. State of Karnataka and Another, , has been relied upon while taking the view in the present case.

With the aforesaid observations, revision petition stands disposed of, so also the pending application, if any. Records of the Courts below be immediately sent back.