
(2010) 05 SHI CK 0254

In the High Court Of Himachal Pradesh

Case No : Criminal Revision No. 36 of 2003

Sandip Mishra

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 17-05-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 185
Penal Code, 1860 (IPC) — Section 201, 279, 337

Citation : (2010) 05 SHI CK 0254

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Judgement

Surinder Singh, J.—Petitioner herein was convicted and sentenced by the learned trial Court under Sections 279, 337 and 201 Indian Penal Code and Section 185 of the Motor Vehicles Act and was ordered to undergo imprisonment for a period of six months for each of the offences punishable under Sections 279 and 337 Indian Penal code and Section 185 of the Motor Vehicle Act. He was also sentenced to undergo simple imprisonment for a period of two months u/s 201 Indian Penal Code and also to pay a fine of Rs. 500/ - under each of the offences total amounting to Rs. 1000/ -, with default clause.

2. The conviction and sentence was assailed by the Petitioner before the Court of Sessions in criminal appeal No. 30-N/10/2001. Vide detailed judgment dated 25.2.2003, while conviction and sentence passed by the learned trial Court for the offences under Sections 201 Indian penal Code and 185 Motor Vehicles Act, was set aside but conviction under Sections 279 and 337 Indian Penal code was upheld but substantive sentence was modified to the extent that the Petitioner shall undergo simple imprisonment for one month and to pay a fine of Rs. 500/ - for offences u/s 279 Indian Penal Code and u/s 337 Indian Penal Code simple imprisonment for one month and to pay fine of Rs. 500/ - for offence u/s 337 Indian Penal Code. In the event of the default of payment of fine, Petitioner was ordered to further undergo simple imprisonment for 15 days for each default. Both the sentences were ordered to run concurrently.

3. Feeling aggrieved and dissatisfied by the impugned judgment by the Appellate Court, instant revision petition has been preferred, inter alia, on the grounds that the learned trial Court did not appreciate the evidence led on record in the right perspective and further that there was no cogent evidence to prove the ingredients of the offences charged. The identity of the Petitioner was also not established in accordance with law.

4. Shri Ramakant Sharma, Advocate for the Petitioner submits that there is no fault with the judgments of the Courts below with respect to the conviction of the Respondents qua the offences punishable under Sections 279 and 337 Indian Penal Code. But in the facts and circumstances of the case, the sentence even as modified by the first appellate court is harsh, he prays for leniency keeping in view his age and antecedents.

5. Matter considered.

6. Precisely, the case of the prosecution is that on 29.11.2000, at about 5.30 p.m. Petitioner was driving Maruti Van bearing registration No. HIA-1500, in a high speed and also in zigzag manner from the side of the Cantt area. On seeing the Petitioner driving the said vehicle in such a manner, complainant Mohamad Ramjan, who was outside his shop got back closed to the shop. The van aforesaid struck against him resulting into injuries on his right shoulder and thereafter the van struck against the bus. The matter was reported to the Police. The injured was got medically examined. He had sustained simple injuries on his person.

7. The Petitioner was arrested and he was medically examined and as per opinion of the doctor, he had consumed alcohol but he was not under the influence thereof.

8. The Petitioner was put to trial and he was convicted and sentenced by the learned trial Court and in appeal, sentence under Sections 279, 337 Indian Penal Code was modified, as aforesaid.

9. The Petitioner is not a previous offender. There is no history of crime to his credit. He being the first offender and has faced the torture of trial in all along these years. He is a youthful offender a chance to reform by now, the good sense may have prevailed upon him. As such, while maintaining the conviction for the aforesaid offences, in my opinion, the interest of justice would be met in case the substantive sentence imposed by the learned Court of Sessions is modified and substituted till rising of the Court while maintaining the fine. The Petitioner shall be present before the learned trial Court on 4.6.2010 to serve out the sentence till the rising of the Court as aforesaid and in case the fine is not deposited, he shall also deposit the fine as imposed by the first appellate Court. Ordered accordingly. The petition stands disposed of.