

(2016) 11 PAT CK 0024

In the Patna High Court

Case No : Criminal Revision No. 643 of 2015 (Arising Out of PS.Case No. -null
Year-null Thana-null District-Sasaram (Rohtas))

Sheo Parsan Singh

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 11-11-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397, Section 401
Penal Code, 1860 (IPC) — Section 279, Section 304A

Citation : (2017) 1 ECRC 256

Hon'ble Judges : Mr. Chakradhari Sharan Singh, J.

Bench : Single Bench

Advocate : Mr. Ashok Kumar Pandey, Advocate, for the Petitioner; Mr. Rajendra Kumar Nat, APP, for the State

Final Decision : Dismissed

Judgement

Mr. Chakradhari Sharan Singh, J.(Oral) - The petitioner was put on trial on the charge of commission of offence under Sections 279 and 304A of the Indian Penal Code, in Trial No. 288 of 2002, before the learned Sub Divisional Judicial Magistrate, Sasaram, which arose out of G. R. No. 1981 of 1996. The learned Trial Court held him guilty of the said offence for rash and negligent driving of a bus, leading to death of a person. The learned Trial Court sentenced the petitioner to undergo rigorous imprisonment for a period of three months for the offence punishable under Section 279 of the Indian Penal Code and for one year of rigorous imprisonment for the offence punishable under Section 304A of the Indian Penal Code.

2. The petitioner's appeal, bearing Criminal Appeal No. 31 of 2002, preferred by the petitioner against the said judgment and order of the learned Trial Court, dated 18.02.2002, came to be disposed of by the judgment and order, dated 23.05.2015, passed by the learned 5th Additional Sessions Judge, Rohtas, at Sasaram. The learned 5th Additional Sessions Judge, Rohtas, at Sasaram, while

upholding the conviction of the petitioner under Sections 279 and 304A of the Indian Penal Code, thought it proper to modify the sentence of imprisonment to imposition of fine of Rs. 10,000/- for the offence punishable under Section 279 of the Indian Penal Code and Rs. 50,000/- for the offence punishable under Section 304A of the Indian Penal Code. The said judgment and order of the Appellate Court stipulates that in default of payment of fine, the petitioner shall have to undergo rigorous imprisonment for a period of 12 months. The amount of fine, in terms of the judgment and order of the Appellate Court, is to be paid to the next kin of the deceased.

3. I have heard learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

4. This revision application has been filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, by the petitioner feeling aggrieved by the judgment and order, dated 23.05.2015, passed, by the learned 5th Additional Sessions Judge, Rohtas, at Sasaram, in Criminal Appeal No. 31 of 2002.

5. Learned Counsel appearing on behalf of the petitioner has submitted that there was no cogent evidence available before the learned Trial Court to come to a finding that the bus, in question, was being driven by the petitioner rashly and negligently. According to him, there is vague evidence adduced at the trial by some of the witnesses, who were the co-villagers of the deceased in support of the case of the prosecution that the bus was being driven rashly and negligently. He has, accordingly, submitted that finding of conviction recorded by the Courts below of the offence punishable under Sections 279 and 304A of the Indian Penal Code against the petitioner is perverse and erroneous, requiring interference by this Court in the present proceeding under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973.

6. As has been indicated above, the Appellate Court has, after re-appreciation of evidence on record, affirmed the judgment of conviction recorded by the learned Trial Court. It is not the case of the petitioner that there was no evidence before the learned Trial Court in support of the accusation against the petitioner that he was driving the bus rashly and negligently. The concurrent findings of fact by the Courts below, in such circumstances, cannot be declared to be perverse by this Court, sitting in revisional jurisdiction.

7. Further, I find that the learned Appellate Court has considered other mitigating circumstance and decided to modify the punishment of sentence to imprisonment to payment of fine. The approach adopted by the learned Appellate Court, in the facts and circumstances of the case, in my opinion, appears to be justifiable and reasonable.

8. Considering the above, I do not find any compelling or exceptional circumstances for this Court to exercise revisional powers under Section 397 read with Section 401 of the Indian Penal Code, by interfering with the

concurrent findings of fact recorded by the Courts below.

9. This application is, accordingly, dismissed.