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Mal Singh Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Apr-29-2013

Appellant : Mal Singh

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Amit Dubey

Judgement :

1 Cr. Rev. No.295/2013/200 29.04.2013 Shri Amit Dubey, counsel for the applicant. Shri Pushpraj Singh, PL for the State. Heard. This Criminal Revision under Section 397/401 of Code of Criminal Procedure has been preferred by the applicant being aggrieved by judgment dated 11.2.2013 delivered by Additional Sessions Judge, (Fast Track Court), Burhanpur in Criminal Appeal No.75/2012 whereby the appeal of the applicant has been dismissed and conviction and sentence recorded by Chief Judicial Magistrate, Burhanpur vide Judgment dated 17.5.2012 in Criminal Case No.1903/2007, has been affirmed wherein applicant was convicted under Section 304-A of IPC and Section 3/181 of Motor Vehicle Act and sentenced him to undergo RI for 1 year and fine of Rs. 1,000/- and fine of Rs. 500/- respectively, with default stipulations.

2. Facts, in short, giving rise to this revision petition are that on 18.6.2007 at about 22.25, a Patrolling Party of Police found that applicant along with two persons Muneem and Heeralal were lying in front of the Petrol Pump of Naval Singh. All were injured. Immediately they have been shifted to the hospital. During treatment,

Muneem has succumbed to the injuries sustained by him on his head. The post mortem report is Ex.P/9. During further investigation, it was found that a person, who was negligently driven the motorcycle in drunken condition, slipped and got injured.

3. After due investigation, applicant was prosecuted before 2 the Chief Judicial Magistrate, Burhanpur, who after recording the evidence, convicted the applicant under Section 304-A of IPC and Section 3/181 of Motor Vehicle Act and sentenced him to rigorous imprisonment for 1 year and fine of Rs. 1,000/- and fine of Rs. 500/- respectively, with default stipulations vide judgment dated 17.5.2012.

4. Being aggrieved by aforesaid judgment dated 17.5.2012, applicant filed the appeal before the Additional Sessions Judge, (Fast Track Court) Burhanpur, who dismissed the appeal and affirmed the conviction and sentence recorded by the Chief Judicial Magistrate, Burhanpur vide judgment dated 11.2.2013. Hence this revision petition.

5. Learned counsel appearing on behalf of the applicant has submitted that he does not want to challenge the case on merits. However, he further submitted that the applicant is in jail since 10.2.2013 (i.e. approximately 2 months and 19 days). Ends of justice would be met, if the applicant is convicted for a period of jail sentence (2 months and 19 days) already undergone and fine may be enhanced.

6. I have perused the impugned judgments and record of the courts below along with evidence recorded by the trial Court. not it is well settled that the punishment of not less than six months should be awarded in the case of Section 304- A of IPC.

7. Considering over all facts and circumstances of the case, I am of the view that there is no illegality or irregularity 3 committed by the courts below in recording the conviction under Section 304-A of IPC and Section 3/181 of Motor Vehicle Act. Thus, the convictions recorded under Section 304-A of IPC and Section 3/181 of Motor Vehicle Act, are hereby affirmed.

8. However, since applicants had already suffered the jail sentence of 2 months and 19 days, in these circumstances, ,in my opinion, ends of justice would be met, if the jail sentence awarded is reduced to the period of six months.

9. Resultantly, the criminal revision is partly allowed to the extent aforesaid. The conviction recorded by the Courts below under Section 304-A of IPC and Section 3/181 of Motor Vehicle Act are hereby affirmed. The jail sentence awarded by the Courts below is reduced to the period of six months.

10. The record of the Courts below be sent back immediately along with a copy of this order. (G.S. Solanki) Judge ravi

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