

Omprakash Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Oct-09-2013

Appellant : Omprakash

Respondent : The State of Madhya Pradesh

Judgement :

HIGH COURT OF MADHYA PRADESH AT JABALPUR Criminal Revision
No.1812/2013 Petitioner : Omprakash Vs. Respondent : The State of Madhya
Pradesh Present: Hon. Shri B.D.Rathi
----- For
petitioner : Shri R.S.Patel, Advocate For the respondent : Shri S.K.Kashyap, Govt.
Advocate -----

ORDER

(9/10/13) This revision petition has been preferred against the judgment dated 2/9/2013 passed by Sessions Judge, Burhanpur in Cr.A. Nos.34/13 whereby the judgment dated 1/2/2013 passed by Judicial Magistrate First Class, Burhanpur, in Criminal Case No.3414/2012 convicting the petitioner under Sections 279, 337, 338 and 304A of the IPC and sentencing him under Section 338 (on 15 counts) to undergo R.I. for 1 year and to pay a fine of Rs.1000/- on each count and under Section 304A (three counts) to undergo R.I. for 2 years and to pay a fine of Rs.1000/- on each count, was modified to the effect that fine amount under Section 304A was reduced from Rs.3000/- to Rs. 1000/-.

2. Prosecution case, in brief, is that on 13/2/2001, Tractor No.MP-12B/0326, was driven by petitioner and nearabout 55 persons were sitting in the Trolley. At about 1.30 p.m. the Tractor Trolley, being driven rashly and negligently, all of sudden turned turtle, causing death of three people and 15 persons were injured grievously.

3. At the outset, learned counsel for the petitioner submitted that he does not want to challenge the convictions awarded to the petitioner. However, he prayed that the custodial sentences may be minimized with suitable enhancement in the fine amount. According to him, the petitioner is in jail since 2/9/13. 2 Cr.R. No.1812/2013 4. In response, learned Government Advocate while making reference to the incriminating pieces of evidence on record, submitted that the conviction was well merited and the impugned judgment did not warrant interference.

5. Having regard to the arguments advanced by the parties, perused the judgments of the courts below.

6. As the convictions are not under challenge, adverting to the question of sentence, it is apparent from the record that the incident took place, as early as, in the year 2001 and since then the petitioner has faced the prosecution and suffered the ordeal of trial and appeal for a considerable period of more than twelve years. Taking into consideration facts and circumstances of the case including the fact petitioner is a first offender and a villager, interests of justice would be met if the term of custodial sentence is reduced to a period of three months under Section 338 of the IPC on each one of the 15 counts while the fine sentence is maintained. Moreover, the term of custodial sentence under Section 304A of the IPC is reduced to a period of 1 year on one count only because the charge was framed only in respect of one deceased. However, the corresponding fine amount is enhanced to Rs.5,000/- (Rupees five thousand).

7. In view of the aforesaid, impugned convictions are maintained. However, term of custodial sentence is reduced to a period of three months under Section 338 of the IPC on each one of the 15 counts while the fine sentence is maintained. Moreover, the term of custodial sentence under Section 304A of the IPC is

reduced to a period of 1 year on one count only because the charge was framed only in respect of one deceased. However, the corresponding fine amount is enhanced to Rs.5,000/- (Rupees five thousand). Needless to say, that all the custodial sentences shall run concurrently.

8. In the result, the revision stands allowed in part.

9. Copy of the order be sent to the trial Court for information and compliance. (B. D. RATHI) JUDGE910/13 (and)

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