

Bhola Dass Vs. State of Punjab

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Court : Punjab and Haryana

Decided On : Aug-12-1993

Reported in : 1994ACJ1216

Judge : S.K. Jain, J.

Appeal No. : Criminal Revision No. 186 of 1993

Appellant : Bhola Dass

Respondent : State of Punjab

Advocate for Def. : M.K. Garg, Adv.

Advocate for Pet/Ap. : Amarjit Markan, Adv.

Judgement :

S.K. Jain, J.

1. Truck No. PUC 4799 driven by Bhola Dass, appellant herein, rashly, negligently and carelessly on the wrong side of the road ran over Chand Singh on the bus stand, Dugal Khurd at about 3.00 p.m. on 15th March, 1989. Kartar Singh, PW 1, Sat Pal, PW 2 and Sucha Singh, PW 3, had witnessed the occurrence. The appellant had run away leaving the truck at the spot. He was arrested, challaned, charged, tried and convicted under Section 304A, Indian Penal Code, by the Sub-Divisional Judicial Magistrate, Samana, vide judgment dated 3.5.1991. After

hearing learned counsel for the parties on the question of sentence, he sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- or in default of payment of fine, to further undergo rigorous imprisonment for three months. Feeling aggrieved, the convict/appellant preferred an appeal before the Additional Sessions Judge, Patiala, who vide his judgment dated 10.2.1993 dismissed the appeal. This judgment has been impugned in this revision petition.

2. When the case came up for preliminary hearing, notice regarding sentence only was issued.

3. I have heard learned counsel for the parties and gone through the judgments of the courts below.

4. Learned counsel for the petitioner has not challenged the judgment of conviction passed by the learned appellate court. It is hereby confirmed. Learned counsel for the petitioner has urged:

(i) that there is nothing on the record to show that the petitioner was a previous convict;

(ii) that the petitioner was the sole bread-earner of his family consisting of his old dependent mother, young wife and four minor children and that he had no source of income except that of his pay as a driver on a private truck;

(iii) that the petitioner had already been behind the bars for 45 days;

(iv) that the petitioner has faced protracted trial and thereafter filed the appeal and prosecuted the same. He has then preferred this revision petition. Therefore, he has suffered much in terms of harassment and expenditure;

(v) that the heirs of the deceased have been adequately compensated by the Motor Accidents Claims Tribunal, vide its award dated 3.6.1993 and an amount of Rs. 96,000/- has been awarded; and lastly.

(vi). that the petitioner is ready with an amount of Rs. 5,000/- which may be directed to be paid as compensation to the heirs of the deceased. He has urged

that the benefit of the provisions of Section 360, Criminal Procedure Code, may be extended to the petitioner.

5. In reply, learned counsel for the State has vehemently argued that on account of the rash, negligent and careless driving of the petitioner, a valuable human life has been lost, thereby bringing his dependants on the road. Therefore, the petitioner deserves no leniency in the matter of sentence.

6. I have given a thoughtful consideration to the rival arguments. The accident had taken place on 15th March, 1989 and thereafter, the petitioner has faced protracted trial since 3rd of May, 1991. Thereafter, he filed an appeal which was decided against him on 10th February, 1993. Then he has preferred this criminal revision. He has also been behind the bars for 45 days and has also suffered much in terms of expenditure and harassment. It is not disputed before me that his mother, wife and four minor children are dependent on the petitioner and that he is the sole bread-earner of his family. The heirs of the deceased have been granted compensation of Rs. 96,000/- by Motor Accidents Claims Tribunal on account of the death of the deceased in the said motor vehicle accident. There is nothing on record to show that the petitioner was a previous convict. He remained on bail throughout the trial and is on bail presently. He has not misused the concession of bail. No useful purpose will be served, if he is again sent to prison where he is bound to mix up with the hardcore criminals lodged therein and in that case the possibility of his becoming a hardened criminal himself cannot be ruled out.

7. The offence under Section 304A, Indian Penal Code, is punishable with a maximum imprisonment of two years. In these circumstances, considering the antecedents of the petitioner, I find it a fit case to release him on probation. At the same time it is equitable to order him to pay adequate compensation to the next of kin of the aforementioned deceased. Taking this view, the order of sentence is set aside. The petitioner is directed to be released on probation for a period of one year on his furnishing the requisite bonds in the sum of Rs. 5,000/- with one surety in the like amount to the satisfaction of the trial court to appear and receive sentence when called upon during the period of probation and in the meantime to keep the peace and be of good behaviour. He is also directed to pay

compensation of Rs. 5,000/- to the next of kin of Chand Singh deceased by way of compensation, i.e., to Ram Murti, widow of Chand Singh, who has to bring up the minor children. The fine of Rs. 500/- imposed by the trial court and already deposited by the petitioner is converted as the costs of proceedings. With this modification in the order of sentence, this revision petition stands dismissed.

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