

Hari Ram Vs. State

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Court : Delhi

Decided On : Sep-14-1994

Reported in : 1995(1)ALT(Cri)11; 1995CriLJ3152

Judge : Dalveer Bhandari, J.

Acts : Indian Penal Code (IPC) - Sections 337, 338 and 378; Code of Criminal Procedure (CrPC) - Sections 397 and 401

Appeal No. : Cri. Rev. No. 286 of 1979

Appellant : Hari Ram

Respondent : State

Advocate for Def. : Mr. Raman Sawhney, Adv.

Advocate for Pet/Ap. : Mr. S.K. Aggrawal and; Mr. Jitender Sarin, Advs

Judgement :

ORDER

1. This revision petition under Sections 397, 401 of the Cr.P.C. has been filed against the judgment dated 17-12-1979 passed by Mr. R. D. Aggarwal, Additional Sessions Judge, Delhi up-holding the conviction of the petitioner under Sections 337, 378 of the I.P.C. and sentenced the petitioner to six months of R.I. under Sections 337 and 338 of I.P.C. and fine of Rs. 500/- was imposed on him. It is,

further mentioned that in case the fine was realised, then Rs. 450/- will be paid in equal share to Master Sonu and Darshan Lal injured and legal heirs of deceased Krishan Chand.

2. Brief facts necessary to dispose of this petition are recapitulated as under :

3. On 15-11-1973, an accident took place between truck No. PUJ 6477 driven by the accused and Car. No. DHC 434 as a result of which Darshan Lal, Master Sonu and Krishan Chand received injuries. Krishan Chand died on 20th November, 1973. Learned counsel appearing for the petitioner submitted that the conviction of the petitioner under Sections 337 and 338 is not sustainable in view of the peculiar facts and circumstances of this case.

4. Mr. Aggarwal, learned counsel submitted that once it is proved by oral evidence that the truck was moving at the speed about 120 K.M. per hour in that event the Court was not justified in arriving at the conclusion that the truck was driven at the speed of 80 K.M. per hour. The findings of the Court are contrary to the record.

5. The Courts below have erred in relying on the evidence of PW-1 that the speed of the truck was 80 to 100 K.M. per hour.

6. Learned counsel for the petitioner also submitted that the statement of PW-1 ought not to have been relied because he did not mention about the presence of PW-3 alleged eye-witness of the occurrence of accident in his statement. He further submitted that the statement of PW-3 Sant Prakash is also not worthy of any credence because his name was not mentioned in the F.I.R. and the conduct of this witness has not been consistent with the normal human conduct. He did not take the injured to the hospital and he did not even inform the police.

6A. Counsel for the petitioner also urged that Courts below have not recorded special reasons for not granting benefit of the Probation of Offenders Act to the petitioner as envisaged by Section 361 of the Probation of Offenders Act.

7. Mr. Aggarwal submitted that the petitioner has small school going children and sympathetic view ought to have been taken by the Courts below. Learned counsel also submitted that the incident took place on 15-11-1973 almost more than 20

years ago. The petitioner has already undergone around 12 days of imprisonment and no useful purpose would be served in uprooting him from his family and directing him to serve out the remaining sentence, after a lapse of more than 20 years.

8. Looking to the totality of the facts and circumstance of this case, I find substance in the arguments of learned counsel for the petitioner that the incident is of the year of 1973. The petitioner has already served out part of the sentence and no useful purpose would be served by compelling the petitioner to serve out the remaining sentence after a lapse of two decades.

9. In my considered opinion ends of Justice would be met in case conviction of the petitioner is maintained but looking to the peculiar facts of this case, the petitioner is released in the sentence of imprisonment already undergone but the fine of Rs. 500/- imposed by the Courts below is increased to Rs. 5,000/- I order accordingly. The amount of fine collected shall be evenly distributed amongst the two injured and legal heirs of deceased Krishan Chand.

10. The petitioner is directed to deposit fine of Rs. 5,000/- within two months from today, in case the fine is not deposited in that event the petitioner shall serve out the sentence awarded to him by the Additional Sessions Judge.

11. With these observations, the revision petition is partially allowed and accordingly disposed of.

12. Revision partly allowed.