

Shivdev Singh Vs. State (Delhi Administration)

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Court : Delhi

Decided On : Jul-26-1994

Reported in : I(1995)ACC53; 1995ACJ318; 1995CriLJ2142; 1994(3)Crimes731; 58(1995)DLT462; 1994(30)DRJ483

Judge : Dalveer Bhandari, J.

Appeal No. : Criminal Revn. No. 183 of 1979, dated July 26, 1994

Appellant : Shivdev Singh

Respondent : State (Delhi Administration)

Advocate for Def. : Raman Sawhney, Adv.

Advocate for Pet/Ap. : Rajeev Awasthi and; amices curiae, Adv

Judgement :

ORDER

1. The revision petition has been filed against the order dated 20th August, 1979 passed by Mr. G. S. Dhaka, Additional Sessions Judge, Delhi, whereby he dismissed the appeal of the petitioner and upheld and confirmed the order of sentence dated 18th March, 1978 directing the petitioner to undergo R.I. for one year, by the Metropolitan Magistrate under Section 304-B (304A) of the Indian Penal Code.

2. Brief facts necessary to dispose of this application are reproduced as under :-

The petitioner/accused Shivdev Singh was driving Bus No. DLP-4634 from Subzimandi Ghanta Ghar to Shastri Nagar. At about 9 P.M. on 28-7-1991. PW-5 Chand Singh and PW-1 Kasturi were sitting on the rear seat of the bus. Shital Pershad was standing on the foot-board of the bus. At about 9.15 P.M. the bus reached the Sandra Kalan Crossing. The petitioner/accused took a sharp turn at a very fast speed. Consequently, Shital Pershad fell down from the bus. He was admitted to Irvin Hospital where he expired soon thereafter.

3. Prosecution examined 8 witnesses to prove its case. PW-1. Kasturi, mother of the deceased, was examined on 16-5-1974, three years after the incident. She mentioned in her statement that her sons Shital Pershad and Chand Parkash boarded a bus from Ghanta Ghar for Bharat Nagar. Accused/petitioner was driving the bus. When the bus reached near Chowk Sandhora Kalan, the driver took a sharp turn when the bus was at a fast speed. Consequently, Shital Pershad who was standing near the gate of the bus fell down from the bus and sustained injuries. and after three hours, he expired at Irvin Hospital.

4. PW-5 Chand Singh was examined on 2nd August, 1975. He stated that about four years ago, he, his brother Shital Pershad and his mother Kasturi boarded a bus no DLP-4634 from Ghanta Ghar. He and his mother were standing in the bus near the Conductor near the Foot Board. Shital Pershad was standing on the Foot Board. There was a great rush in the bus. They boarded the bus at about 9/9-15 p.m. The bus was being driven at a fast speed. The bus took a sharp turn near Goal Chakkar (round-about) while it was at a fast speed. Consequently, Shital Pershad fell down. He was taken to Irvin hospital where he expired alter sometime. PW-6 Dr. Bishni Kumar examined the injuries of the deceased at 4 P.M. on 29-7-1971. The deceased sustained 9 injuries and in his opinion, the death was caused due to haemorrhage and shock. He further opined that the injuries on the person of the deceased could be caused by vehicular accident.

5. The prosecution has been able to establish its case beyond any reasonable doubt.

6. In this view of the matter, I do not find any merit in the revision petition and it is accordingly dismissed.

7. Mr. Rajeev Awasthi, learned amices curiae in this case has submitted that the incident is of 1971. The petitioner/accused has already undergone (sic) imprisonment therefore, no useful purpose would be served in sending the accused/petitioner behind the bars after 23 years, particularly, in a case of this nature.

8. I have considered the submissions of the learned amices curiae. In the peculiar facts and circumstances of this case, in my opinion, the ends of justice would meet if the sentence of one year R.I. is reduced to the period already undergone, provided the petitioner Shivdev Singh pays Rs. 5000/- to Smt. Kasturi, wife of Shri Ram Gopal, mother of the deceased Shital, R/o B-1740, Shastri Nagar, Delhi. In case Smt. Kasturi is not alive, then this amount may go to the father of the deceased, Shri Ram Gopal, within four months from today. In case it is not possible to locate both Kasturi and Ram Gopal, in that event, the amount shall be deposited with the Registrar of this Court in the account of legal-aid to the poor. The amount be paid within 2 months of expiry of the period already indicated above.

9. The petition is accordingly disposed of in the aforementioned terms.

10. Order accordingly.