

Bailister Vs. State

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Court : Delhi

Decided On : May-27-1991

Reported in : 47(1992)DLT489

Judge : B.V. Bansal, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 304A

Appeal No. : Criminal Revision Appeal No. 109 of 1991

Appellant : Bailister

Respondent : State

Advocate for Pet/Ap. : T.R. Sharma, Adv

Judgement :

V.B. Bansal, J.

(1) By way of this revision petition Bailister has challenged his conviction under Secs. 304-A and 279 Indian Penal Code recorded by a MetropolitanMagistrate, Delhi on 8/10/1986 who was sentenced to R.I. for one year with a fine of Rs. 1000.00 for offence under Sec. 304-A and R.I. for three months with a fine of Rs. 500.00 for the offence under Sec. 279 IPC.

(2) On appeal the order of conviction was upheld but the order of sentence was modified inasmuch as the sentence under S. 304-A Indian Penal Code was reduced to nine months.

(3) Still being not satisfied the petitioner has filed the present petition.

(4) Sho Police Station Civil Lines filed a challan against the petitioner in Fir No. 6 dated 2.1.1979. According to the prosecution story on 2/01/1979 Dd No. 70-A was recorded in P.S. Civil Lines on the basis of the information received from the police control room that Bus No. DLP-6965 was involved in an accident near Water Works No. 2, Chandrawal near Majnuka Tila in which an old lady has died. Copy of this Dd entry was given to S.I. Mahabir Singh who along with police officials reached the spot and found Bus No. Dlp 6965 and the dead body of the old lady lying which was subsequently found to be of Smt. Goma. He did not find any eye witness of the occurrence and on the basis of his inspection case was registered. Statements of the witnesses were recorded and the post-mortem was conducted of the dead body. Accused was arrested and after completion of the investigation challan was filed.

(5) In support of its case prosecution examined 11 witnesses. In his statement recorded under S. 313 Cr. P.C. the petitioner stated that he was the driver of the bus No. Dlp 6965 at the time of the occurrence. He has, however, denied that he was rash or negligent or that his bus struck against the old lady Smt. Goma. His plea has been that it was a false case and interested witnesses deposed against him.

(6) Learned trial Court after hearing arguments sentenced the appellant and his appeal was accepted in part as well.

(7) I have heard learned Counsel for the petitioner and have also gone through the records.

(8) It is not disputed that the prosecution story rests on the testimony of Rajinder (PW8), an eye witness.

(9) Submission of learned Counsel for the petitioner has been that the presence of this eye witness is highly improbable and he has been introduced subsequently. I have read out complete statement of the witness and I have not been able to find any material in his statement so as to hold that he was not a reliable witness or that he has deposed contrary facts. In these circumstances, I do not find any wrong in the finding arrived at by the trial Court affirmed on appeal holding the petitioner guilty of the offence under Secs. 304-A and 279 IPC.

(10) Learned Counsel for the petitioner prays for leniency.

(11) I find that the sentence has already been reduced by the appellate Court and do not find any scope for interference.

(12) As a result, the petition stands dismissed. Petition dismissed.

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