

**Daya Nand Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/698613](http://sooperkanoon.com/698613)

**Court :** Delhi

**Decided On :** May-27-1990

**Reported in :** II(1991)ACC507

**Judge :** V.B. Bansal, J.

**Appellant :** Daya Nand

**Respondent :** State

**Judgement :**

**V.B. Bansal, J.**

1. By way of this revision petition Daya Nand challenged his conviction under Section 304-A/279/337/338 IPC recorded by Metropolitan Magistrate on 4th October, 1989 and confirmed by Addl. Sessions Judge, Delhi vide judgment dated 15th December, 1989. He has also challenged the sentence of R.I. for one year under Section 304-A IPC and a fine of Rs. 1000/- each for the offence under Sections 279, 337 and 338 IPC and in default of payment of fine to further undergo R.I. for 6 months.

2. The case of the prosecution, in brief, has been that on 16th September, 1978 the petitioner was driving bus No. DLB 5987 in a rash and negligent manner so as to endanger human life and struck against a tractor No. PNR 6689 on account of which Hukam Singh received simple injuries, Pehlad Singh received grievous

injury and Umrao Singh also received injuries who succumbed to his injuries in the hospital.

3. A perusal of the judgment of the appellate court indicates that the appeal was not contested on merits and submission was made before him on the question of sentence.

4. Learned Counsel for the petitioner, however, submits that in fact counsel for the petitioner was not allowed to argue the matter.

5. This is contested by learned Counsel for the respondent

6. I have no reason but to accept the fact that the appeal was not argued on merits. Even otherwise the appellate court has stated that the conviction of the petitioner is based on the evidence on record. Thus, I do not find any ground to interfere with the concurrent findings of the two courts below holding the petitioner guilty of the offence under Section 304-A/279/337 and 338 IPC.

7. Learned Counsel for the petitioner prays for leniency.

8. It has been noticed that for the offence under Section 337 IPC the sentence awarded by the trial court has been a fine of Rs. 1000/- or in default to undergo R.I. for 6 months and this order was maintained by the appellate court. A bare perusal of the provisions under Section.337 shows that the maximum punishment permissible is a fine of Rs. 500/-. Thus, the amount of fine imposed by the trial court upheld by the appellate court for the offence under Section 337 IPC cannot be upheld and so this amount is reduced to Rs. 500/-. Otherwise, I do not find any ground for interference with the finding of the appellate court who has already reduced the sentence awarded by the trial court.

9. With the above modification, the revision petition stands dismissed.