

**Balwant Singh Vs. State**

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**Court :** Delhi

**Decided On :** Aug-03-2005

**Reported in :** 122(2005)DLT600; 2005(83)DRJ663

**Judge :** R.S. Sodhi, J.

**Acts :** Indian Penal Code (IPC) - Sections 279 and 304A

**Appeal No. :** Crl. Rev. P. 431/2004

**Appellant :** Balwant Singh

**Respondent :** State

**Advocate for Def. :** V.K. Malik, Adv.

**Advocate for Pet/Ap. :** Ramkishan, Adv

**Judgement :**

R.S. Sodhi J.

1. This Revision Petition is directed against the Order dated 22nd July, 2004, of the learned Additional Sessions Judge in C.A.No.05/04, which appeal was directed against the Order dated 10th December, 2003, whereby the learned Trial Court has held the accused guilty for offence under Section 279/304A IPC and vide subsequent Order imposed a penalty of RI for one month and a fine of Rs.1,000/- under Section 279 IPC and RI for one year and fine of Rs.5000/- under

Section 304 IPC and in default to undergo further SI for 30 days for the offence under Section 279 IPC and SI for six months in default under Section 304A IPC. Vide the impugned order the learned Judge has upheld the Order of conviction of the learned Trial Court but has reduced the sentence of RI for one year to 6 months for offence under Section 304A IPC. The sentences for both offences were directed to run concurrently.

2. Counsel for the Petitioner submits that he is not in a position to argue the matter on merits and is not challenging the conviction but confines his arguments only to the question of sentence. I, therefore, uphold the order of conviction. Learned Counsel for the Petitioner submits that the Petitioner was about 20 years of age at the time of alleged accident (20.8.1991). The trial took about 12 years and thereafter the appeal which is a limb of the trial also consumed time. It means that the petitioner has faced trial for 13 years. It was a private vehicle and not a commercial one and the accident had taken place by co-incidence and not otherwise. The Petitioner belongs to a poor strata of society. He has settled in life during this period. He has a wife and two minor children to maintain. He is the sole bread earner for his family. He has been regularly attending the trial without any default. He has undergone the ordeal of trial and has suffered even financial losses. He is a native residence of Village in Mandi District of Himachal Pradesh. His wife and children are living there and there is no one to look after them. His family will be ruined if the Petitioner is sent to jail. He is not involved in any other case and during the trial period he has maintained good conduct, consistently. He further submits that the Petitioner is on bail since 29th October, 2004, and has undergone some period of sentence of imprisonment imposed on him. He further submits that there has been no complaint about his having belied the trust bestowed upon him by this Court. He also submits that the Petitioner is also not a previous convict and has by now assimilated in the mainstream of the society as a useful citizen, therefore, no useful purpose would be served in requiring him to undergo the remaining portion of his sentence at this belated stage. Learned Counsel for the State has no objection if the sentence of imprisonment of the Petitioner is reduced to the period already undergone.

3. Having heard learned Counsel for the Parties and in view of what has been stated by learned Counsel for the State, I am of the view that the ends of justice would be met if the sentence of imprisonment of the Petitioner is reduced to the period already undergone. It is ordered accordingly.

4. With this modification, Criminal Revision Petition No. 431/2004 is disposed of. The bail bond and the surety shall stand discharged.

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