

Nasri Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Feb-06-1991

Reported in : 1991(1)WLN121

Judge : V.S. Dave, J.

Appeal No. : S.B. Cr. Revision Petition No. 123/87

Appellant : Nasri

Respondent : State of Rajasthan

Judgement :

V.S. Dave, J.

1. This order is in continuation of the order which was passed by this court on 27th July, 1987 when I had referred the matter to the Division Bench, as I differed with the observations made in Amar Lal v. State by my learned brother Hon'ble Lodha J., as then he was, framing the following question:

Whether the decision in the aforesaid case lays down a general preposition that in all Automobile Accident Cases there should not be a lesser punishment than one year punishment and a fine of Rs. 15,000.

Hon'ble the Chief Justice placed the matter before the Division Bench which answered the question vide its order dated 11th July, 1988 as under:

The decision in Amar Lal v. State, S.B. Criminal Revision Petition No. 65/83 decided on 6.5.87 does not lay down a general proposition though, in all Automobile Accident Cases there should not be lesser punishment than one year's imprisonment and a fine of Rs. 15,000.

The case should have been listed immediately after the reference was answered, but it appears that the Registry remitted the record to the trial court along with the order of the Division Bench considering it to be a final order in the case and it was learned Addl. Sessions Judge No. 1, Alwar who sent this case back to this court for disposal on merits.

2. I have heard learned Counsel for the parties and perused the record for the purposes of considering mitigating circumstances as to whether the lesser punishment should be, imposed than the one given by the courts below or the accused may be dealt with under the provisions of Probation of Offenders Act.

3. The incident has taken place in this case almost 12 years before and the accused had remained in custody for some time during investigation and then after his appeal was dismissed by the first appellate court. In view of the fact that appeal has already been dismissed on merits, I am not inclined to comment upon the facts of the case but still can not refrain from observing that site plan Ex.P. 3 which has been prepared, coupled with the circumstances existing on the spot do indicate the negligence on the part of the petitioner so that requires to be taken note of for the purposes of reduction of sentence. The fact that cycle on which the deceased was sitting has also not been crushed, is yet another circumstance which does indicated that the petitioner did make an attempt to save the deceased. He had also not run away from the place of occurrence and tried to explain the circumstances which of course did not find favour with the two courts below and this court being court of revision, would not disturbed the finding of facts. However, looking to all the facts and circumstances of the case ends of justice would meet in case amount of compensation which has been awarded as Rs.1500/- to the complainant by the trial court is increased to Rs. 10,000/- in lieu of the sentence imposed.

4. The result of the aforesaid discussion is that this revision is partly allowed. The conviction of the accused-petitioner is maintained but in lieu of sentence imposed the petitioner is given the benefit of the provisions of S.4 of the Probation of Offenders Act. His sentence is set aside provided he executes a personal bond in the sum of Rs. 2000/- and a surety in the like amount to the satisfaction of the trial court for keeping peace and be of good behaviour for a period of one year. He shall also deposit a sum of Rs. 10.000/- as compensation to be paid to Ram Dayal. The amount shall be deposited in the court within a period of four months from today. In case the amount is deposited within the aforesaid period the trial court shall ensure that the money is paid to the complainant within a period of a fortnight of its being deposited. In case the petitioner does not deposit the money in the aforesaid period or fails to seek extension of time before the expiry of the aforesaid period from this court, he shall serve court the remaining sentence imposed on him by the courts below. In case the bond is executed and money of compensation, is deposited the bail bonds and surety bond executed earlier shall stand cancelled.

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