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Court : Rajasthan

Decided On : Jul-07-1987

Reported in : 1987WLN(UC)448

Judge : Kishore Singh Lodha, J.

Appeal No. : S.B. Cr. Revision Petition No. 94 of 1987

Appellant : Hari Das

Respondent : State of Rajasthan

Judgement :

Kishore Singh Lodha, J.

1. Petitioner Haridas has been convicted under Section 304A, IPC and sentenced to one year's rigorous imprisonment, and fine of Rs. 1000/-, and further convicted under section 279, IPC and sentenced to two months' rigorous imprisonment and fine of Rs. 200/-, by the learned Munsif and Judicial Magistrate, Sirohi, by his judgment dated 1-6-1982. His appeal before the learned Sessions Judge has been rejected on 25-2-1987. He has, therefore, come up in revision before this Court.

2. I have heard learned Counsel for the petitioner and the learned Public Prosecutor and have gone through the record.

3. Learned Counsel for the petitioner did not challenge the conviction of the petitioner and, in my opinion rightly so. He however, urged that the Courts-below have not complied with section 360, Cr. PC. and has not assigned any reason for not dealing with the petitioner under section 360, Cr.PC. In the alternative, it is prayed that the petitioner has already undergone five months, rigorous imprisonment and looking to the circumstances of the case the sentence under section 304A, IPC may be reduced to that already undergone. In support of this contention, he has placed reliance upon Nag Singh v. State of Raj. (1980 Raj. Cr. Cases 56). This authority does support the contention of the petitioner. However, in the circumstances of this case, now at this stage, instead of granting probation to the petitioner, I am of the opinion that his sentence may be reduced to that already undergone and in lieu of the reduction in sentence, the fine may be increased. The petitioner had already undergone about five months' rigorous imprisonment. Granting of probation would again bind him down for further period. The circumstances of the case also indicate that a lenient view in the question of sentence may be taken. The incident had taken place in the year 1976, almost 11 years have passed thereafter. It also appears that the deceased also probably was guilty of contributory negligence in as much while the vehicle was negotiating a turn, he abruptly came in the middle of the road.

4. The revision is, therefore, partly allowed. The convictions of the petitioner under Sections 304A and 279, IPC are maintained. However, the substantive sentence under Section 304A is reduced to the already undergone by him, and in lieu of the reduction, a further fine of Rs. 1000/- is imposed upon him. The total fine under Section 304A, will thus, come to Rs. 2000/-. In default of payment of fine, the petitioner shall undergo 4 months' RI. If the fine is recovered, the whole of the amount shall be paid to the heirs of the deceased.