Charan Singh vs State on 9 January, 2026

IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment reserved on : 24.12.202
Judgment pronounced on : 09.01.2

+ CRL.REV.P. 132/2014

CHARAN SINGH .....Pe

versus

STATE ..... Resp

Advocates who appeared in this case:
For the Petitioner : Mr. Ashwin Vaish, Mr. Aaditya Sharma
Mr. Uttam Panwar, Mr. Yashasvi Desai a
Ms. Shubhi Viajyvargiya, Advocates.

For the Respondent : Mr. Raj Kumar, APP for the State wit
W/SI Priyanka, PS Samaipur Badli.

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed challenging the judgment dated 18.02.2014 (hereafter 'impugned judgment'), passed in CA No. 20/13, whereby the learned Additional Sessions Judge ('ASJ'), Rohini Courts, Delhi upheld the judgment of conviction dated 05.10.2010 and order on sentence dated 10.11.2010, in Case No. 407/2 arising out of FIR No. 436/99 ('FIR'), registered at Police Station SP Badli.

2. By the judgment of conviction dated 05.10.2010, the learned Trial Court convicted the petitioner for the offences under Sections 279/304A of the Indian Penal Code, 1860 ('IPC'). By the order on sentence dated 10.11.2010, the learned Trial Court sentenced the petitioner to undergo simple imprisonment for a period of one year and to pay a fine of 4000/- for the offence under Section 304A of the IPC, and in default of payment of fine, to undergo simple imprisonment for a period of three months. No sentence was awarded for the offence under Section 279 of the IPC in view of the sentence imposed for the offence under Section 304A of the IPC.

3. The brief facts of the case are as follows:

> 3.1. On 13.06.1999, the FIR was registered on a complaint made by the sister of the victim for offences under Sections 279/304A of the IPC. It is the case of the prosecution that on 13.06.1999, at around 5PM, the complainant (PW1/ sister of the victim) and the victim along with their friends-Gaurav (PW3) and Chandan (PW4) were going towards Samaipur through GTK Road near Mukarba Chowk on two separate scooters. The complainant was sitting as the pillion rider on the scooter driven by PW4 while the victim was sitting as the pillion rider on the scooter driven by PW3. Allegedly, the road was crowded and the traffic was moving slowly due to the same. The scooter on which the complainant was sitting was on the left side of the road while the scooter on which the victim was sitting was on the right side.

The DTC bus bearing no. DEP-9509 was allegedly being driven by the petitioner at a high speed in a rash and negligent manner and the same struck the scooter, on which the victim was sitting, from the back side. Allegedly, the scooter got entangled in the bus and was dragged along with the bus for a while before the bus stopped. The petitioner allegedly came down from the bus and fled the spot with the offending vehicle after seeing the accident. The victim was rushed to the hospital, however, she succumbed to her injuries.

3.2. During investigation, a notice under Section 133 of the Motor Vehicles Act, 1988 was issued to DTC, in response to which, on 18.06.1999, the Traffic Inspector of DTC produced the petitioner with the assertion that he was driving the offending vehicle on the date of the incident.

3.3. By the judgment of conviction dated 05.10.2010, the learned Trial Court convicted the petitioner for the offences under Sections 279 and 304A of the IPC after observing that the aspect of rash and negligent driving is proved from the deposition of witnesses which reflects that the scooter as well as the injured were dragged for a while before the vehicle was stopped. By order on sentence dated 10.11.2010, as noted above, a sentence of one year as well as a fine of 4000/- was imposed after rejecting the petitioner's plea for probation.

3.4. By the impugned judgment, the learned ASJ upheld the conviction and sentence of the petitioner.

3.5. Aggrieved by the same, the petitioner filed the present petition.

4. The learned counsel for the petitioner submitted that the petitioner's conviction is erroneous in law and the Courts below have erred in not appreciating the inconsistencies and improbabilities in the case of the prosecution.

5. He submitted that the investigating officer was not examined in the present case and significant prejudice has been caused to the petitioner on account of the same.

6. He submitted that the driver license of PW3 and PW4 was not recovered during investigation. Further, he submitted that all the eye witnesses have claimed that the traffic was slow moving in their lane and the traffic on the lane on their right was fast moving, which indicates that the accident

may have occurred when PW3 tried changing lanes to avoid the slow traffic. He submitted that the use of the words-rash and negligent, by all the three eye witnesses, is clearly a result of tutoring.

7. He submitted that PW3 has not specifically attributed any rash or negligent act to the petitioner. He submitted that PW4's evidence is unreliable as he was unable to remember the number of the tempo in front of his scooter, but recalls the number of the bus. He submitted that all the said witnesses were also known to the victim and they are thus interested witnesses.

8. He submitted that at the stage of Section 313 of the Code of Criminal Procedure, 1973 ('CrPC'), the entire case of the prosecution has either not been put to the petitioner or incorrect facts have been put to him. He submitted that the place of the incident is mentioned as 'Kukarba chowk', which is not only non-existent but does not come in the testimony of PW3, PW4 and the complainant. He submitted that even if the same is a typographical error, it is a substantial one and deviates from the case of the prosecution. He further submits that it has been wrongly put to the petitioner that he was driving Bus bearing no. DEP 950.

9. He submitted that the petitioner was identified in Court for the first time in the year 2001, that is, two years after the incident, without any formal TIP, which further casts doubt on the credibility of the prosecution, especially since it is the case of the prosecution that the driver of the offending vehicle ran away from the spot on 13.06.1999 and the traffic inspector of DTC produced the petitioner on 18.06.1999.

10. Without conceding on the merits of the case, the learned counsel further submitted that the petitioner's sentence may be reduced to the period already undergone by him on account of the fact that more than two decades have passed since the incident and the petitioner has clean antecedents. A reference was made to the affidavit filed by the petitioner indicating the mitigating circumstances, including, the petitioner being 68 years of age and suffering from asthma and hypertension. It is also mentioned that the petitioner's wife is 60 years of age and unable to walk without support due to her health, and her one lung is also damaged.

11. Per contra, the learned Additional Public Prosecutor for the State submitted that the Courts below have rightly returned a finding of conviction after appreciating the evidence on record. He submitted that there is no infirmity in the conviction of the petitioner, however, he concedes that the State has no objection if a lenient view is taken in regard to the sentence in view of the mitigating circumstances.

ANALYSIS

12. It is pertinent to note that since the petitioner has preferred a revision petition before this Court thereby challenging the concurrent findings of the learned ASJ and learned Magistrate, the role of this Court is limited to assessing the correctness, legality and propriety of the impugned judgment. It is well settled that this Court ought to exercise restraint, and should not interfere with the findings of the impugned orders or reappreciate evidence solely because another view is possible unless the impugned orders are wholly unreasonable or untenable in law. The Hon'ble Apex Court in the case

of State of Kerala v. Puttumana Illath Jathavedan Namboodiri : (1999) 2 SCC 452 discussed the scope of revisional jurisdiction and held as under:

> "5. ..... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice...."

(emphasis supplied)

13. In the case of Amit Kapoor v. Ramesh Chander : (2012) 9 SCC 460, the Hon'ble Apex Court had also expounded upon the scope of interreference in exercise of revisional jurisdiction. The relevant portion of the judgment is as under:

> "12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.
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> 13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie...
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> 18. ...Basically, the power is required to be exercised so that justice is done and there is no abuse of power by the court. Merely an apprehension or suspicion of the same

would not be a sufficient ground for interference in such cases.

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20. The jurisdiction of the court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression "prevent abuse of process of any court or otherwise to secure the ends of justice", the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily..."

(emphasis supplied)

14. In the present case, the prosecution examined 11 witnesses in support of its case, including the eye witnesses- PW3 (the person who was driving the scooter on which the victim was seated as the pillion rider), PW4 (the person who was driving the second scooter on which the complainant was seated as the pillion rider) and PW6 (the complainant). Apart from them, the prosecution examined the officer who accompanied the investigating officer to the spot of the incident (PW1), the doctor who medically examined the victim when she was brought to the hospital (PW2), mechanical inspector who examined the concerned scooty (PW5), the doctor who conducted the victim's post-mortem (PW7), the traffic inspector from DTC who evidenced that the petitioner was driving the concerned vehicle on the relevant date (PW8), the owner of the scooter (PW9), the officer in whose presence the scooter was taken into possession (PW10) and the officer who proved the registration of the FIR (PW11).

15. Although certain grounds in relation to mechanical inspection report not being considered and site plan not being prepared were raised before the lower Courts, before this Court, the petitioner has assailed his conviction on essentially four grounds- the reliability of the eye witnesses, the non-examination of the investigating officer, the errors in the questions put to the petitioner at the stage of recording his statement under Section 313 of the CrPC and that the petitioner was identified after a delay of two years in Court without any formal test identification parade.

16. Firstly, insofar as the credibility of the eye witnesses is concerned, it is argued on behalf of the petitioner that they are interested witnesses, there are some discrepancies in their evidence and their testimonies indicate that they were tutored. As far as the assertion of the eye witnesses being interest witnesses is concerned, it has been rightly appreciated by the learned ASJ that merely because the complainant is the sister of the victim and the other two eye witnesses were known to the victim, the same is not sufficient to make their case unreliable. The learned ASJ also rightly referred to the judgment in Mano Dutt v. State of U.P. : (2012) 4 SCC 79, where the Hon'ble Apex Court had observed that there is no bar against examining family members or an interested witness

or a person known to the affected party as a witness, and such evidence cannot be discarded if the same is credible. It is well-settled that a relative, who is a natural witness, cannot be regarded as an interested witness [Ref. Kartik Malhar v. State of Bihar : (1996) 1 SCC 614].

Though some doubt is sought to be cast by making reference to minute inconsistencies, it has been rightly noted by the learned ASJ that the contradictions are trivial in nature which are bound to occur if the witnesses are examined after lapse of time. It was noted that while the accident occurred on 13.06.1999, PW3 was examined on 25.01.2001, PW4 was examined on 15.01.2001 and PW6 was examined on 06.11.2001. Much emphasis is laid on the aspect that PW4 could not recall the vehicle number of the tempo in front of him. Pertinently, the same is no relevance to the accident and PW4's evidence is not rendered unreliable because he couldn't recall the number of another vehicle on the road, as opposed to the vehicle which actually caused the accident. No evidence was led to support the case of the petitioner that the accident was caused while changing lanes, and the evidence of all eye witnesses are consistent on the manner of the accident, that is, the victim being dragged with the scooter by the bus.

Although it is argued that the eye witnesses were tutored, the only reason for this apprehension is that the words- rash and negligent were used by the said witnesses. Having been afforded an opportunity to cross-examine the witnesses and failed to bring forth such material inconsistencies in their versions which raises doubt on the case of the prosecution, merely because of use of similar terminology by the eye witnesses or use of is not sufficient to deem the eye witnesses as unreliable, especially when the witnesses have elaborated that the bus dragged the victim along with the scooter for a distance which manifestly indicates rashness and negligence. This Court finds merit in the observation of the learned Trial Court that the very conduct of the petitioner shows that he was driving the bus in a rash and negligent manner as he failed to immediately stop the bus after the accident, despite the fact that the traffic was moving slowly.

17. Secondly, it is argued that the non-examination of investigating officer has severely prejudiced the case of the petitioner. Pertinently, as rightly noted by the Courts below, non-examination of the investigating officer is not necessarily fatal in every case. The petitioner has not mentioned as to how he has been prejudiced apart from making a bald claim of being robbed of an opportunity to bring forth lapses in prosecution. Having found the evidence of the eye witnesses to be reliable and consistent in respect of the material aspects, lapse of prosecution in this respect cannot nullify the entire case and material against the accused.

18. Thirdly, it is argued that the entire particulars of the case were not properly put to the petitioner and there are certain typographical errors in the questions posed to him at the stage of recording his statement under Section 313 of the CrPC. The first error is in relation to the place of the incident being mentioned as 'Kukarba chowk' instead of 'Mukarba chowk', and the bus number being mentioned as 'DEP 950' instead of 'DEP 9509'. This argument has not been agitated by the petitioner before the learned Trial Court or the learned ASJ. It is well-settled that retrial can be directed if non-compliance of Section 313 of the CrPC has caused prejudice to the accused [Ref. Nar Singh v. State of Haryana : (2015) 1 SCC 496].

In the opinion of this Court, the errors in the present case are not grave, especially since in a subsequent question, the correct number of the bus was mentioned. The petitioner admitted to driving the bus on the concerned day, however, he denied that any such accident took place. The particulars of the manner in which the accident took place were also put to the petitioner. It cannot be said that the circumstances appearing in evidence were not put to the petitioner as there is reference to the statement of the complainant as well as evidence of the eye witnesses, which are the most crucial aspects of the present case. In such circumstances, mere typographical errors of such error cannot be deemed to be akin to an absolute non- compliance of Section 313 of the CrPC, whereby the same is of no benefit to the petitioner as there is no evident prejudice caused to him.

19. Fourthly, the aspect of test identification parade has also been dealt with by the Courts below. It has been rightly appreciated that the petitioner had admitted to driving the bus on the concerned day, and even PW8 had deposed that the petitioner was driving the vehicle on that day. The eye witnesses specifically mentioned the number of the bus and the same was mentioned by the complainant in her initial statement, which led to registration of FIR as well. Thus, the said argument is also of no benefit to the petitioner as the identity of the petitioner as the driver of the bus on the relevant date is duly proved.

20. As noted above, at the stage of revision, this Court is not required to reappreciate evidence and it can interfere only in face of palpable and glaring perversity. Considering the aforesaid discussion, this Court is of the opinion that the petitioner has failed to make out any case which warrants interference with his conviction.

21. Insofar as the sentence of the petitioner is concerned, pertinently, the incident took place on 13.06.1999 and more than twenty-five years have elapsed since then. Apart from spending around 10 days in incarceration, the petitioner has been on bail throughout the intervening period and he has since retired from his job as a bus driver without any other criminal involvements of this nature. It is also pointed out that the petitioner is a senior citizen and he has an ailing wife.

22. No minimum sentence of imprisonment is prescribed for the offences under Section 304A of the IPC and Section 279 of the IPC. At this juncture, this Court deems it apposite to note that the reformative purpose of sentencing as well.

23. In the case of Parkash Chandra Agnihotri v. State of M.P. :

> 1990 Supp SCC 764, the Hon'ble Apex Court while upholding the conviction of the appellant therein for the offence under Section 304A of the IPC, the Hon'ble Apex Court had reduced the sentence of the accused to only payment of fine. The relevant portion of the order is as under:
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> "...The occurrence took place on February 18, 1972. The appellant has throughout been on bail. He has been sentenced to six months rigorous imprisonment and a fine of Rs 250. We are of the view that it would be rather harsh to send the appellant to jail after 18 years of the occurrence. The ends of justice would be met if the appellant

> is asked to pay a fine of Rs 2000. The sentence is thus converted to a fine of Rs 2000. On realisation the amount shall be paid to the family of the deceased girl. The amount be deposited with the trial court within two months from today and the trial court shall disburse the same to the parents of the girl and in the absence of the parents to the next of kin of the girl. In default of the payment of fine the appellant shall undergo imprisonment for six months."

(emphasis supplied)

24. In the opinion of this Court, interests of justice would be met if the sentence imposed upon the petitioner is reduced to the period already undergone by him as no purpose would be served by relegating him to undergo the remaining period of carceral punishment after more than twenty five years have passed since the incident.

25. In view of the above, without interfering with the conviction of the petitioner, his sentence is reduced to the imprisonment already suffered by him and payment of fine of 4000. It is stated that the fine has already been paid by the petitioner.

26. The present petition is disposed of in the aforesaid terms.

27. The bail bond and surety furnished by the petitioner stands discharged.

AMIT MAHAJAN, J JANUARY 09, 2026 DU