

State of Punjab

Vs

Mohinder Singh

Criminal Appeal No. 803 of 1980

(A. M. Ahmadi, S. Mohan JJ

11.03.1992

JUDGMENT

1. The respondent, a truck driver, was tried for an offence under S. 302, I.P.C. for murder of one Smt. Amar Kaur wife of PW-3.
2. On August 5, 1975 at about noon time PW-6 noticed a woman falling on the ground from a truck heading towards Amritsar. She was run over by the vehicle in the revenue boundary of his village Sochetgarh. This incident was noticed by a few others as well. They all went near that woman to find her uttering the last words 'You bastard have killed me'. In spite of attempts to make her survive by pouring water in her mouth she died. Thereafter, the investigation was taken up.
3. The case of the prosecution is that the accused gave a lift to Amar Kaur in the Truck No. PUG 1465. While driving he tried to misbehave with the deceased. She wanted to get out and while she had stepped on the foot-board the accused abruptly applied the brakes. The deceased fell down. Thereafter she was run over by the truck and was killed.
4. Though the defence was one of denial, the learned Sessions Judge found that the prosecution had established the case and convicted him under Section 304 Part II and sentenced him to rigorous imprisonment for five years and fine of Rs. 2,000/-, in default one year's rigorous imprisonment. The matter was taken up in appeal. The High Court found, there was no scope for interference with the conviction. However, the sentence was reduced to the period already undergone and the fine was enhanced from Rs. 2,000/- to Rs. 4,000/-, in default three years' rigorous imprisonment. Fine, if realised, was to be paid to the husband of Amar Kaur. Subject to this modification, the appeal was dismissed. The accused filed special leave petition against this judgment which was dismissed by this Court by an order dated 15th December, 1980. Now the present appeal is by the State with regard to sentence only.
5. Learned counsel for the State urged that the period undergone was hardly 2½ months. Therefore, the punishment was ridiculous. Such a serious crime cannot be so lightly dealt with. More so, for no default of the deceased she was killed, when she wanted to escape from the clutches of the accused. Therefore, it calls for an enhancement of sentence. In opposition it is argued that the offence itself has not been properly made out. There was no intention of the accused to kill the deceased. It merely happened accidentally. Rightly, therefore, the High Court had interfered with the sentence, no interference by this Court is called for.

6. We have carefully considered the above arguments. We are clearly of the view that the High Court after having confirmed the conviction under Section 304 Part II. I.P.C. was hardly justified in reducing the sentence to the extent it did. The High Court should have noticed that the accused was throughout on bail and he did not deserve any sympathy because he tried to molest an innocent and perhaps a gullible person. who took a lift in the vehicle. Therefore, now turning to the question of sentence we find that the accused had hardly served 2½ months in jail which is grossly inadequate. However, having regard to the fact that the occurrence took place on 5th August. 1975 and having regard to the long lapse of time we do not think that accused should be sent to jail. Therefore, a heavy fine could meet the ends of justice. Accordingly, we enhance the fine by an additional Rs. 10,000/- (over and above whatever has been paid already by the accused). In default he shall undergo rigorous imprisonment for a period of three years. The payment may be made within three months from today. The appeal is allowed accordingly. Fine, if recovered. may be paid to the children of the deceased and if there be none to the husband of the deceased. Appeal allowed.

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