

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 1259/2008

Mahesh Kumar S/o Shri Ramanandji, by caste Maheshwari, R/o
14-A, Saheli Marg, Udaipur.

-----Petitioner

Versus

State of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. Mudit Vaishnav
For Respondent(s)	:	Mr. K.S. Kumpawat, Assistant to Mr. Deepak Choudhary, AAG

HON'BLE MR. JUSTICE MANOJ KUMAR GARG
Order

16/07/2025

1. By way of filing the instant criminal revision petition, a challenge has been made to the order dated 22.11.2008 passed by the learned Addl. Sessions Judge No.3, Udaipur, (for short, "the appellate Court") in Criminal Appeal No.37/2008 while partly allowing the appeal filed against the judgment of conviction dated 02.05.2008 passed by the learned Judicial Magistrate No.2 (South) Udaipur, in Regular Criminal Case No.746/2004 by which the learned appellate Judge has convicted & sentenced the petitioner as under:-

Offence	Sentence	Fine & default sentence
Sec. 279 IPC	6 months' SI	Rs.500/- and in default of payment of fine, fifteen days' S.I.
Sec. 304-A IPC	1 Year's SI	Rs.500/- and in default of payment of fine, fifteen days' S.I.

2. Both the sentences were ordered to run concurrently and the period spent in judicial custody shall be adjusted in the original imprisonment.

3. The gist of the prosecution story is that on 06.10.2002 complainant Girdhari Lal submitted a written report at concerned Police Station, to the effect that on 06.10.2002 at about 6.30 p.m. when he was standing opposite Shrinath Travels alongwith his friend Ram Avtar. At that time, Ram Avtar's wife met with an accident with a scooter bearing registration No.RJ-27-3M-2897 driven by petitioner rashly and negligently and she succumbed to injuries. On this report, the FIR was lodged at concerned Police Station, against the petitioner. After usual investigation, charge-sheet came to be submitted against the petitioner in the Court concerned.

4. The Learned Magistrate framed charge against the petitioner for offences under Sections 279 & 304-A of IPC and Section 134/187 IPC and upon denial of guilt by the accused, commenced the trial. During the course of trial, as many as ten witnesses were examined and certain documents were exhibited. Thereafter, an explanation was sought from the accused-petitioner under Section 313 Cr.P.C. for which he denied the same. IN defence, certain documents were exhibited and one witness was examined. After hearing the learned counsel for the accused petitioner and meticulous appreciation of the evidence, learned Trial Judge has convicted the accused for offence under Sections 279 & 304-A of IPC and Section 134/187 of M.V. Act vide judgment dated 02.05.2008 and sentenced him. Aggrieved by the judgment of conviction, he preferred an appeal before the Addl. Sessions Judge No.3, Udaipur, which was partly allowed vide judgment dated 22.11.2008. Both these judgments are under assail before this Court in the instant revision petition.

5. Learned counsel Mr. Mudit Vaishnav, representing the petitioner, at the outset submits that he does not dispute the finding of guilt and the judgment of conviction passed by the learned trial court and partly allowed by the learned appellate court, but at the same time, he implores that the incident took place in the year 2002. He had remained in jail for about five days after passing of the judgment by the appellate Court. No other case has been reported against him. He hails from a very poor family and belongs to the weaker section of the society. He has been facing trial since the year 2002 and he has languished in jail for some time, therefore, a lenient view may be taken in reducing his sentence.

6. Learned Asst. to Addl. Advocate General though opposed the submissions made on behalf of the petitioner but does not refute the fact that the petitioner has remained behind the bars for about five days and except the present one no other case has been registered against him.

7. Since the revision petition against conviction is not pressed and after perusing the material, nothing is noticed which requires interference in the finding of guilt reached by learned courts below, this court does not wish to interfere in the judgment of conviction. Accordingly, the judgment of conviction is maintained.

8. As far as the question of sentence is concerned, the petitioner remained in jail for some time and he has been facing the rigor for last 23 years. Thus, in the light of the judgments passed by the Hon'ble Supreme Court in the cases of **Haripada Das Vs. State of West Bengal** reported in **(1998) 9 SCC 678**

and ***Alistar Anthony Pareira vs. State of Maharashtra*** reported in **2012 2 SCC 648** and considering the circumstances of the case, age of the petitioner, his status in the society and the fact that the case is pending since a pretty long time for which the petitioner has suffered some time incarceration and the maximum sentence imposed upon him is of one year as well as the fact that he faced financial hardship and had to go through mental agony, this court deems it appropriate to reduce the sentence to the term of imprisonment that the petitioner has already undergone till date.

9. Accordingly, the judgment of conviction dated 02.05.2008 passed by the learned Judicial Magistrate No.2, Udaipur in Regular Criminal Case No.746/2004 and the judgment dated 22.11.2008 passed by the learned Addl. Sessions Judge No.3, Udaipur, in Criminal Appeal No.37/2008 are affirmed but the quantum of sentence awarded by the learned Appellate Court is modified to the extent that the sentence he has undergone till date would be sufficient and justifiable to serve the interest of justice. The fine amount is hereby waived, if not already deposited. The petitioner is on bail. He need not to surrender. His bail bonds are cancelled.

10. The revision petition is allowed in part.

11. Pending applications, if any, are disposed of.

12. Record of the Courts below be sent back.

(MANOJ KUMAR GARG),J