



AMARAVATI  
DT.21-11-2022

ROC.No.578/2022-Vigilance Cell

To  
All the Unit Heads.

Sir/Madam,

As directed, I am herewith forwarding the copy of judgment rendered by the Hon'ble Supreme Court in Dalbir Singh vs. State of Haryana, dated 04.05.2000 and State of Punjab vs. Balwinder Singh, dated 06.01.2012, with regard to <sup>passing of</sup> minimum sentence in 304 A Indian Penal Code cases, with a request to circulate the same to all the Junior Civil Judges, working in your Unit, for their guidance.

Yours sincerely,

Screeh  
21.11.22

REGISTRAR (VIGILANCE)

DISTRICT COURT, EAST GODAVARI, RAJAMAHENDRAVARAM  
DATED 29-11-2022.

The Hon'ble High Court of A.P. Amaravathi in Roc.No.578/2022-Vigilance Cell dated 21.11.2022 is communicated to all the Junior Civil Judges in the Unit of District Judge, East Godavari for compliance with the direction issued by the Hon'ble Supreme Court of India, scrupulously without any deviation and requested to download the Judgment copy of the Hon'ble Supreme Court passed in "Dalbir Singh vs State of Haryana" in Appeal (Cr1.) No.426 of 2000".

208291

30-11-2022

I ADDL. DISTRICT JUDGE  
(FAC) DISTRICT JUDGE

30/11/22

To

- 1) All the Junior Civil Judges working in the Unit of District Judge, East Godavari.
- 2) Copy to the System Officer-In-charge is directed to upload the Judgment copy in the District Court website in East Godavari at "Circular Notice".



AMARAVATI  
DT.21-11-2022

ROC.No.578/2022-Vigilance Cell

To  
All the Unit Heads.

Sir/Madam,

As directed, I am herewith forwarding the copy of judgment rendered by the Hon'ble Supreme Court in Dalbir Singh vs. State of Haryana, dated 04.05.2000 and State of Punjab vs. Balwinder Singh, dated 06.01.2012, with regard to <sup>passing of</sup> minimum sentence in 304 A Indian Penal Code cases, with a request to circulate the same to all the Junior Civil Judges, working in your Unit, for their guidance.

Yours sincerely,

Screeh  
21.11.22

REGISTRAR (VIGILANCE)

Circulate  
to all the  
JCs in the  
unit  
28/11/22

25  
OPC

R 5843  
28-11-22

Supreme Court of India

Dalbir Singh vs State Of Haryana on 4 May, 2000

Bench: K.T. Thomas, Doraiswamy Raju

CASE NO. :

Appeal (crl.) 426 of 2000

PETITIONER:

DALBIR SINGH

RESPONDENT:

STATE OF HARYANA

DATE OF JUDGMENT: 04/05/2000

BENCH:

K.T. THOMAS & DORAISWAMY RAJU

JUDGMENT:

JUDGMENT 2000 (3) SCR 1000 The Judgment of the Court was delivered by THOMAS, J. When automobiles have become death traps any leniency shown to drivers who are found guilty of rash driving would be at the risk of further escalation of road accidents. All those who are manning the steering of automobiles, particularly professional drivers, must be kept under constant reminders of their duty to adopt utmost care and also of the consequences befalling them in cases of dereliction. One of the most effective ways of keeping such drivers under mental vigil is to maintain deterrent element in sentencing sphere. Any latitude shown to them in that sphere would tempt them to make driving frivolous and frolic.

A man who drove a stage carriage knocked down a cyclist who succumbed to this injuries. The said driver was convicted of the offence relating to rash or negligent driving and he was sentenced to a term of imprisonment. His appeal and revision were dismissed by the Sessions Court and the High Court respectively. He has now come up with the special leave petition. Leave is granted.

After hearing learned counsel for the appellant we did not feel the necessity to wait for the arguments on behalf of the respondent-State. So we did not issue notice to the State.

Appellant was driving a bus which belonged to Haryana Roadways. It was on 4.7.1994 at 6.15 P.M. that the cyclist was knocked down in front of the main gate of the Board of School Education at Bhiwani. The cyclist was just going out of the office of the Board where he was working. The bus, after hitting him down, dragged him for some distance. He was crushed to death. The driver was convicted under Section 279 and Section 304-A of the IPC, and was sentenced to imprisonment for three months and one year respectively under the above two counts. He made a two-fold plea in the trial court. One was that he was not the person who drove the vehicle. The other was that the accident happened due to the negligence of the cyclist. Both the pleas were repelled by the trial court and the Sessions Court. On the positive side both the said courts found that the incident happened within the town area whereat offices are situated and hence the need to be greatly circumspect while driving motor vehicles was act adhered to by the appellant and such carelessness resulted in the



instantaneous death of the young man who was crushed under the wheels of the vehicle. The revision filed by the appellant before the High Court was dismissed in limine.

Learned counsel pleaded for invocation of the benevolent provision of the Probation of Offenders Act, 1958 (for short "the PO Act").

As a precedent learned counsel cited the decision of this Court in Aitha Chander Rao v. State of Andhra Pradesh, [1981] Supple. SCC 17. But we may point out that the two Judge Bench, which extended the benefit of Section 4 of the P.O. Act to the accused in that case, made it clear that such a course was resorted to "having regard to the peculiar circumstances of this case". None of the peculiar circumstances has been specified in the decision except that the negligence on the part of the driver in that case was only contributory. The said decision, therefore, cannot be treated as an authority to support the contention that the court should, as a normal rule, invoke the provisions of the P.O. Act when the accused is convicted of the offence under Section 304-A of IPC in causing death of human beings by rash or negligent driving.

The conditions for applying Section 4 of the P.O. Act have been delineated in the commencing portion of the provision in the following words :

"When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct....."

Parliament made it clear that only if the court forms the opinion that it is expedient to release him on probation for his good conduct regard being had to the circumstances of the case. One of the circumstances which cannot be sidelined in forming the said opinion is "the nature of the offence."

Thus Parliament has left it to the court to decide when and how the court should form such opinion. It provided sufficient indication that releasing the convicted person on probation of good conduct must appear to the court to be expedient. The word "expedient" had been thoughtfully employed by the Parliament in the section so as to mean it as "apt and suitable to the end in view". In Block's Law Dictionary the word "expedient" is defined as "suitable and appropriate for accomplishment of a specified object" besides the other meaning referred to earlier. In State of Gujarat v. Jamnadas G. Pabri & Ors., AIR (1974) SC 2233 a three Judge Bench of this Court has considered the word "expedient". Learned Judges have observed in paragraph 21 thus :

"Again, the word 'expedient' used in this provisions, has several shades of meaning. In one dictionary sense, 'expedient' (adj.) means 'apt and suitable to the end in view', 'practical and efficient'; 'politic'; 'profitable'; 'advisable', 'fit, proper and suitable to the circumstances of the case'. In another shade, it means a device 'characterised by mere utility rather than principle conducive to special advantage rather than to what is universally right' (see Webster's New International Dictionary)."

It was then held that the court must construe the said word in keeping with the context and object of the provision in its widest amplitude. Here the word "expedient" is used in Section 4 of the P.O. Act in the context of casting a duty on the court to take into account "the circumstances of the case including the nature of the offence.....". This means Section 4 can be resorted to when the court considers the circumstances of the case, particularly the nature of the offence, and the court forms its opinion that it is suitable and appropriate for accomplishing a specified object that the offender can be released on probation of good conduct. Courts must bear in mind that when any plea is made based on Section 4 of the P.O. Act for application to a convicted person under Section 304-A of IPC, that road accidents have proliferated to alarming extent and the toll is galloping up day-by-day in India, and that no solution is in sight not suggested by any quarters to bring them down. When this Court lamented two decades ago that "more people die of road accidents than by most diseases, so much so the Indian highways are among the top killers of the country" the saturation of accidents toll was not even half of what it is today. So V.R. Krishna Iyer, J., has suggested in the said decision thus :

"Rashness and negligence are relative concepts, not absolute abstractions. In our current conditions, the law under Section 304-A IPC and under the rubric of negligence, must have due regard to the fatal frequency of rash driving of heavy duty vehicles and of speeding menaces."

In *State of Kamataka v. Krishna alias Raju*, [1987] 1 SCC 538 this Court did not allow a sentence of fine, imposed on a driver who was convicted under Section 304-A IPC to remain in force although the High Court too had confirmed the said sentence when an accused was convicted of the offence of driving a bus callously and causing death of a human being. In that case this Court enhanced the sentence to rigorous imprisonment for six months besides imposing a fine.

Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the P.O. Act. While considering the quantum of sentence, to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance think that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of vehicle he cannot escape from jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles.

Thus, bestowing our serious consideration on the arguments addressed by the learned counsel for the appellant we express our inability to lean to the benevolent provision to Section 4 of the P.O. Act. The appeal is accordingly dismissed.

Supreme Court of India

State Of Punjab vs Balwinder Singh Etc on 6 January, 2012

Author: P.Sathasivam

Bench: P. Sathasivam, J. Chelameswar

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL Nos. 47-48 OF 2012

(Arising out of S.L.P. (Crl.) No. 7872-7873 of 2010)

State of Punjab

.... Appellant(s)

Versus

Balwinder Singh and Ors.

.... Respondent(s)

J U D G M E N T

P.Sathasivam,J.

1) Leave granted.

2) These appeals are filed against the common final

judgment and order dated 04.11.2009 passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Revision Petition Nos. 653 and 655 of 2000 for nature of offence and quantum of sentence whereby the High Court partly allowed the revision petition and reduced the

quantum of sentence awarded by the Judicial Magistrate, Ist Class, Amritsar as upheld by the Additional Sessions Judge, Amritsar under Sections 304A, 337 and 279 of Indian Penal Code, 1860 (in short `IPC').

3) Brief facts:

(a) On 30.10.1992, one Dhian Singh-the Complainant

(PW-3), after attending the last rites of one of his relatives at Village Mustabad, Amritsar was returning to Batala along with his family members in a Jhang Transport Bus bearing No. PB-

02-D-9485. The bus was being driven at a very high speed by the driver-Respondent No. 1 herein. When the aforesaid bus reached the bus stand at Mudhal, at that time, a truck bearing No. PB-02-C-9665 which was being driven by Respondent No. 2 herein was coming from the opposite side at a very high speed. Both the drivers were driving their vehicle at a very high speed and in rash and negligent manner, as a result of which, both the vehicles collided with each other and two passengers, namely, Darshan Singh s/o Bela Singh and Banso w/o Ajit Singh died at the spot. The other passengers, namely, Sonia, Dalbir Singh and Ramandeep were taken to the Civil Hospital but later on they succumbed to their injuries.

(b) On the basis of the complaint of Dhian Singh, FIR No. 125/92 was registered under Sections 304A, 279 and 337 of IPC and after formal investigation the case was forwarded to the Court of Judicial Magistrate, Ist Class, Amritsar. The Judicial Magistrate, by order dated 14.12.1998, convicted both the accused persons and directed them to undergo rigorous imprisonment for 2 years each for the offence under Section 304A and to pay fine of Rs. 200/- each, in default, to further undergo rigorous imprisonment for two months and to also undergo rigorous imprisonment for a period of six months each for the offence punishable under Sections 337 and 279 IPC.

(c) Aggrieved by the judgment and order dated 14.12.1998, the accused persons preferred an appeal before the Additional Sessions Judge, Amritsar. Vide judgment dated 20.05.2000, the Additional Sessions Judge upheld the judgment and order passed by the Judicial Magistrate, Ist Class, Amritsar.

(d) Questioning the same, the respondents herein filed Criminal Revision Petition being Nos. 653 and 655 of 2000 qua nature of offence and quantum of sentence before the High Court. The High Court, by order dated 04.11.2009, while confining to the question of quantum of sentence only, reduced the sentence of the accused persons to the period already undergone (15 days) and in addition thereto, enhanced the fine to an amount of Rs. 25,000/- each.

(e) Against the order of the High Court, the State of Punjab has filed these appeals before this Court by way of special leave petitions.

4) Heard Mr. Ashok Aggarwal, learned senior counsel for the appellant and Mr. Sudhir Walia and Mr. K.G. Bhagat, learned counsel for the respondents.

5) Before the High Court, the respondents, who preferred the revisions, did not dispute the finding relating to negligence rendered by the courts below and confined their submissions to the quantum of sentence only and prayed that the sentence be reduced to the period already undergone. In support of the above claim, they pointed out that they had suffered a protracted trial for about 17 years and had already undergone custody for 15 days, therefore, prayed for lenient view by modifying the sentence. On the other hand, on behalf of the State, it was submitted that inasmuch as the negligence was proved beyond reasonable doubt, therefore, no leniency should be shown to the accused. The High Court, without taking note of the seriousness of the matter, namely, due to the negligence of the two drivers, five persons traveling in the bus died, merely because of protracted trial of about 17 years and both of them had served sentence for a period of 15 days, reduced the same to the period already undergone and enhanced the fine to an amount of Rs.25,000/- each.

6) It is not in dispute that the trial Court on appreciation of evidence and accepting the prosecution witnesses convicted the respondents for an offence under Section 304A. The said section reads as under:

304A. Causing death by negligence.- Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

7) Section 304A was inserted in the Penal Code by the Indian Penal Code (Amendment) Act 27 of 1870 to cover those cases wherein a person cause the death of another by such acts as are rash or negligent but there is no intention to cause death and no knowledge that the act will cause death. The case should not be covered by Sections 299 and 300 only then it will come under this section. The section provides punishment of either description for a term which may extend to two years or fine or both in case of homicide by rash or negligent act. To bring a case of homicide under Section 304A IPC, the following conditions must exist, namely,

1) There must be death of the person in question;

2) the accused must have caused such death; and

3) that such act of the accused was rash or negligent and that it did not amount to culpable homicide.

8) Even a decade ago, considering the galloping trend in road accidents in India and its devastating consequences, this Court in Dalbir Singh vs. State of Haryana, (2000) 5 SCC 82 held that, while considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver should not take a chance thinking that even if he is convicted, he would be dealt



with leniently by the court. The following principles laid down in that decision are very relevant:

"1. When automobiles have become death traps any leniency shown to drivers who are found guilty of rash driving would be at the risk of further escalation of road accidents. All those who are manning the steering of automobiles, particularly professional drivers, must be kept under constant reminders of their duty to adopt utmost care and also of the consequences befalling them in cases of dereliction. One of the most effective ways of keeping such drivers under mental vigil is to maintain a deterrent element in the sentencing sphere. Any latitude shown to them in that sphere would tempt them to make driving frivolous and a frolic.

13. Bearing in mind the galloping trend in road accidents in India and the devastating consequences visiting the victims and their families, criminal courts cannot treat the nature of the offence under Section 304-A IPC as attracting the benevolent provisions of Section 4 of the Probation of Offenders Act. While considering the quantum of sentence to be imposed for the offence of causing death by rash or negligent driving of automobiles, one of the prime considerations should be deterrence. A professional driver pedals the accelerator of the automobile almost throughout his working hours. He must constantly inform himself that he cannot afford to have a single moment of laxity or inattentiveness when his leg is on the pedal of a vehicle in locomotion. He cannot and should not take a chance thinking that a rash driving need not necessarily cause any accident; or even if any accident occurs it need not necessarily result in the death of any human being; or even if such death ensues he might not be convicted of the offence; and lastly, that even if he is convicted he would be dealt with leniently by the court. He must always keep in his mind the fear psyche that if he is convicted of the offence for causing death of a human being due to his callous driving of the vehicle he cannot escape from a jail sentence. This is the role which the courts can play, particularly at the level of trial courts, for lessening the high rate of motor accidents due to callous driving of automobiles."

9) The same principles have been reiterated in B.

Nagabhushanam vs. State of Karnataka, 2008 (5) SCC

730.

10) It is settled law that sentencing must have a policy of correction. If anyone has to become a good driver, must have a better training in traffic laws and moral responsibility with special reference to the potential injury to human life and limb. Considering the increased number of road accidents, this Court, on several occasions, has reminded the criminal courts dealing with the offences relating to motor accidents that they cannot treat the nature of the offence under Section 304A IPC as attracting the benevolent provisions of Section 4 of the Probation of Offenders Act, 1958. We fully endorse the view expressed by this Court in Dalbir Singh (supra).

11) While considering the quantum of sentence to be imposed for the offence of causing death or injury by rash and negligent driving of automobiles, one of the prime considerations should be deterrence. The persons driving motor vehicles cannot and should not take a chance thinking that even if he is convicted he would be dealt with leniently by the Court. For lessening the high rate of motor accidents due to careless and callous driving of vehicles, the courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence if the prosecution is able to establish the guilt beyond reasonable doubt.

12) In the light of the above principles, we express our inability to accept the reasoning of the High Court in reducing the sentence of imprisonment to the period already undergone, that is, 15 days. Merely because the fine amount has been enhanced to Rs.25,000/- each, is also not a sufficient ground to drastically reduce the sentence, particularly, in a case where five persons died due to the negligent act of both the drivers of the bus and the truck. Accordingly, we set aside the impugned order of the High Court and impose a sentence of rigorous imprisonment for six months with a fine of Rs.

5,000/- each. The trial Court is directed to take appropriate steps for surrender of the accused in both the appeals to serve the remaining period of sentence. The appeals are allowed to the extent mentioned above.

.....J.

(P. SATHASIVAM) .....J.

(J. CHELAMESWAR) NEW DELHI;

JANUARY 6, 2012.