HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Revision Petition No. 164/2006
CNR: RJHC020123302006 | URN: CRLR / 300U / 2006

Durgashankar S/o Shri Harinarain, Aged About 39 years, R/o Village Khumawada, Police Station-Khanpur, District Jhalawar, (Rajasthan).

----Petitioner

Versus

State of Rajasthan through P. P.

----Respondent

For Petitioner(s)	:	Mr. Sudhir Jain, Adv.
For Respondent(s)	:	Mr. Vivek Choudhary, PP

HON'BLE MR. JUSTICE BHUWAN GOYAL

Judgment

07/09/2026

1. The present revision petition under Section 397 read with Section 401 of the Code of Criminal Procedure has been filed by the accused-petitioner-Durgashankar against the Judgment and Order dated 04.02.2006 passed by Special Judge, Women Atrocities and Dowry Cases, Kota (hereinafter referred to as "appellate court") in Criminal Appeal No. 23/2005 (Durgashankar vs. State of Rajasthan) vide which criminal appeal filed by the accused-petitioner has been dismissed and the Judgment and Order dated 15.02.2005 passed by Judicial Magistrate No.3, Kota (North) (hereinafter referred to as "trial court") in Criminal Case No. 507/2000 (State of Rajasthan Vs. Durgashankar & Anr.) convicting and sentencing the petitioner for the offence under

Sections 279, 337 & 304-A of I.P.C. as indicated below, has been affirmed.

offence	**sentence**	**fine**	**sentence in default on payment of fine**
u/s 279 IPC	To undergo 6 months S.I.	Rs.500/-	To further undergo 15 days' S.I.
u/s 337 IPC	To undergo 6 months S.I	Rs.500/-	To further undergo 15 days' S.I.
u/s 304-A IPC	To undergo 2 years S.I	Rs.1,000/-	To further undergo 1 month's S.I.
(All sentences were ordered to run concurrently)			

2. Facts of the case in short are that on 25.04.1997, complainant Aishwarya Jain submitted a *Tehriri* report (Ex.P-3) in Police Station Mandana, to the effect that today he was going from Kota in Maruti Car bearing registration No. RJ-20-C-4400 to Teliya Khedi ASI' mines. Vimal and Kailash were going on Hero Honda Motor Cycle bearing registration No.RJ-20-4-M-9136 ahead before car. At about 9:00–9:15 PM, before Mandana Gwalara Filling Petrol Pump, the driver of the tractor-trolley bearing registration No. RJ-20-R-3120, drove the tractor from opposite side in a rash and negligent manner and hit the motorcycle going on its side, as a result of which, both Vimal and Kailash, who were sitting on the motorcycle, sustained multiple injuries. Thereafter, the driver of the tractor ran away from the spot along with the tractor and trolley. Vimal died on the spot, whereas Kailash, also was seriously

injured was lying on the spot in an unconscious condition. On the basis of said report, the Police registered FIR No. 80/97 for the offence under Sections 279, 337 & 304-A IPC and investigation was commenced. After completing the investigation, the police submitted the challan against accused-petitioner for the offence under Sections 279, 337, 304-A IPC and 146/196 of M.V. Act before the concerned court. Substance of allegations were read over to the accused-petitioner, who denied the same and claimed for trial. The prosecution produced its witnesses and exhibited some documents. The statement of the petitioner was recorded under section 313 CrPC. After conclusion of trial, the trial court passed judgment and order dated 15.02.2005 convicted and sentenced the accused-petitioner for the offence under Sections 279, 337 & 304-A IPC. Thereafter, the petitioner filed an appeal and the appellate court vide its judgment dated 04.02.2006 dismissed the appeal and affirmed the judgment dated 15.02.2005 passed by the trial court. Hence, this criminal revision petition has been preferred by the accused-petitioner.

3. Heard learned counsel for the parties.

4. After arguing the matter on merits at some length, learned counsel for the accused-petitioner does not want to press instant revision petition challenging judgments passed by the courts below qua conviction and prefers to make submissions on the point of sentence only.

5. Learned counsel for the accused-petitioner has submitted that incident in the present case took place way back in the year 1997 i.e. around 29 years ago; accused-petitioner was 30 years of

age at the time of incident and now he is around 59 years old and facing agony of trial for the past about 29 years; accused-petitioner who is sole bread earner in the family, belongs to poor strata of society and remained in police and judicial custody for a period of about four months and there is no previous conviction recorded against the accused-petitioner, therefore, he prays that ends of justice would meet if a lenient view is taken in the matter and sentence of imprisonment awarded to the accused-petitioner is reduced to the period already undergone by him.

6. Learned counsel for the accused-petitioner has relied upon the judgment of Hon'ble Supreme Court in ***Chander Shekhar vs. State of Rajasthan (Criminal Appeal No. 4161/2024) decided on 04.10.2024*** and the judgments rendered by a coordinate Bench of this Court in the cases of ***Shyamveer Singh vs. State of Rajasthan (S.B. Criminal Revision Petition No. 724/2003) decided on 15.05.2024, Smt. Sudesh Kumari vs. State of Rajasthan (S.B. Criminal Revision Petition No. 1047/2005) decided on 09.10.2024, Mahesh Bhargava vs. State of Rajasthan (S.B. Criminal Revision Petition No. 737/2005) decided on 06.11.2024, Pappu vs. State of Rajasthan (S.B. Criminal Revision Petition No. 538/2005) decided on 21.08.2024, Annu @ Anwar vs. State of Rajasthan (S.B. Criminal Writ Petition No. 333/2018) decided on 04.11.2024, Banna Ram vs. State of Rajasthan (S.B. Criminal Revision Petition No. 391 of 2006) decided on 08.07.2024, Heera Lal vs. State of Rajasthan (S.B. Criminal Revision Petition No. 733/2003) decided on***

14.02.2024 & Ram Karan vs. State of Rajasthan (S.B. Criminal Revision Petition No. 972 of 2006) decided on 08.07.2024.

7. Per contra, learned Public Prosecutor while opposing the revision petition, submits that looking to the overall facts and circumstances of the case and the well reasoned speaking orders passed by the courts below, sentence awarded by the trial court and affirmed by the appellate court cannot be said to be disproportionate, therefore, no interference in sentence is warranted in this case.

8. I have considered the arguments advanced at the Bar and have gone through judgments passed by both the courts below and record of the case.

9. Since the revision petition against conviction of the accused-petitioner is not pressed on merits and after perusing the record, nothing is noticed which requires interference in the finding of guilt reached by the courts below. This Court does not wish to interfere in the judgments passed by courts below qua conviction of the accused-petitioner. Accordingly, the judgments passed by the courts below qua conviction of the accused-petitioner are maintained.

10. As far as quantum of sentence is concerned, after perusing judgments and orders impugned, considering the submissions of learned counsel for the parties; precedent law on the issue; accused-petitioner, who was only 30 years of age at the time of incident, has already suffered the agony of protracted trial, spanning over a period of more than 29 years and he remained

incarcerated for some time after passing of the judgment, and no evidence regarding previous conviction of the accused-petitioner is produced on record, this Court is of the opinion that if at this stage, he is sent behind bars, it will result into reviving old enmity and that family of the petitioner will also suffer, therefore, no fruitful purpose would be served by sending him to jail now.

11. This Court is conscious of the judgments rendered in ***Alister Anthony Pareira Vs. State of Maharashtra : (2012) 2 SCC 648*** and ***Haripada Das Vs. State of W.B. : (1998) 9 SCC 678***, wherein, the Hon'ble Apex Court observed as under:-

> **Alister Anthony Pareira (Supra)**
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> "There is no straitjacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles: twin objective of the sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances."
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> **Haripada Das (Supra)**
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> "…considering the fact that the respondent had already undergone detention for some period and the case is pending for a pretty long time for which he had suffered both financial hardship and mental agony and also considering the fact that he had been released on bail as far back as on 17-1-1986, we feel that the ends of justice will be met in the facts of the case if the sentence is reduced to the period already undergone…"

12. Consequently, the judgments dated 04.02.2006 and 15.02.2005 passed by both the courts below qua conviction of the accused-petitioner for the offence under Sections 279, 337 & 304-A of I.P.C. are affirmed but the quantum of sentence awarded to the accused-petitioner by the trial court and affirmed by the appellate court is reduced to the period already undergone by

him, which would be sufficient and justifiable to serve interest of justice. The accused-petitioner is on bail. He need not to surrender. His bail bonds be cancelled.

13. The revision petition stands disposed of accordingly.

14. A copy of this order along with records be sent to the trial court forthwith.

(BHUWAN GOYAL),J

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