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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Order Reserved on: September 16, 2011
Order Pronounced on: October 21, 2011

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Crl.Rev.Petition No.283/2008

SIKANDER SINGH KAMADH

..... Petitioner

Through: Mr.Ajay Raghav, *Amicus*
Curiae Advocate.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Mr.Rajesh Mahajan, Addl.
Standing Counsel (Crl.) with
Ms.Urvi Kuthiala, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

SUNIL GAUR, J.

1. The findings of both the courts below of petitioner being rash and negligent in driving his vehicle i.e. TATA Sumo HR-51-B 1005 on 6.10.1998 at the intersection of Lodhi Road and at about 2:40 p.m. hitting a scooterist who was coming from *Sai Baba Mandir* side, is under challenge in this petition. For committing the offence under Section 304-A of IPC, petitioner has been sentenced to rigorous imprisonment for two years with fine.

2. The graphic version of this incident is unfolded by constable G.Vijay from Operation Cell, Lodhi Colony, New Delhi, who happened to be present at the spot and he had

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claimed in his deposition that he had seen petitioner's vehicle coming at a fast speed from another direction and of hitting Scooter No. DL-3-SK 8578 driven by one Sushil Kumar, who had sustained multiple head injuries which had proved fatal. Petitioner was tried in FIR No. 344/98 under Sections 279/304-A of the IPC.

3. Upon petitioner pleading not guilty, trial ensued. Out of the deposition of 7 witnesses, the material deposition is of Constable G.Vijay, who purportedly had witnessed this incident from the intersection near India Habitat Centre and as per deposition of this witness (PW-5) at the intersection, the traffic light was green for the scooterist but red for the petitioner but by jumping the red light, the petitioner had caused this vehicular accident and thereafter had fled away from the spot.

4. The plea of the petitioner at trial was of bald denial. Trial court upon consideration of the evidence recorded had returned the finding of guilt against the petitioner and had accordingly sentenced the petitioner. The reliability of the eye witness account of this incident was assailed by the petitioner before the appellate Court but without any success.

5. In this revision petition, the same very grounds have been urged which stand repelled in the impugned order of 12.3.2008. When this revision petition was admitted for hearing, the substantive sentence imposed upon the petitioner was suspended and he was released on bail.

6. At the final hearing, petitioner's counsel had sought discharge and accordingly bailable warrants were issued to obtain presence of the petitioner but the same were received back unexecuted with the report that '*whereabouts of the petitioner are not known.*' With the assistance of learned *Amicus Curiae* Counsel- Mr. Rajesh Raghav, record of this case

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has been perused and he has also raised the same very pleas which had not found favour with the Appellate Court and rightly so, as this Court finds that the deposition of the eye witness (PW-5) leaves no manner of doubt that the petitioner was to be squarely blamed for this fatal vehicular accident. Learned *Amicus Curiae* counsel had pointed out that the petitioner had already undergone substantive sentence of about 6½ months and the facts of this case are such that the substantive sentence ought to be reduced to the period already undergone.

7. This plea for mercy cannot be entertained for the reason that jumping of traffic lights by professional drivers; like the petitioner, is rampant and is playing havoc, resulting in loss of precious human lives. Undue sympathy to such callous professional drivers would send wrong signal to the society. Therefore, the plea of mercy advanced on behalf of the petitioner is rejected. Impugned conviction and sentence imposed upon the petitioner does not suffer from any illegality or infirmity, requiring any interference by this Court while exercising revisional jurisdiction.

8. This petition being bereft of merits is hereby dismissed. Consequently, bail bonds of the petitioner stand forfeited, requiring that he be taken into custody to serve out the remainder of the sentence. Trial court to ensure compliance of this order.

9. This petition is disposed of with directions as aforesaid.


(SUNIL GAUR)
JUDGE

October 21, 2011

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