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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 224/2015

SANJEEV KUMAR @ SANJU

..... Petitioner

Through Mr. Jatin, Adv.

versus

STATE

..... Respondent

Through Mr. M.P. Singh, APP for the state.
SI R.S. Pandit PS Preet Vihar.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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07.07.2015

Crl.M.A.5498/2015

Exemption allowed, subject to all just exceptions.

Application is allowed, accordingly.

Crl.Rev.P.224/2015 & Crl.M.A.5499/2015 & Crl.M.B.3306/2015

The Revisionist/petitioner has challenged the judgment and order dated 17.10.2013/30.10.2013 passed by the learned ACMM (East) in connection with the FIR No.390/2002 whereby he has been convicted and sentenced for simple imprisonment for 6 months, a fine of Rs.1,000/- and in default simple imprisonment for one month for the offence under Section 279 IPC and simple imprisonment for one year, a fine of Rs.3,000/- and in default simple imprisonment for one month for the offence under Section 304A IPC as well as the Appellate Court judgment dated 03.02.2015 passed by the learned Additional Sessions Judge-III (East), Karkardooma Courts,

Delhi, in Criminal Appeal No.16/2014 whereby the conviction and sentence passed by the Trial Court has been upheld and affirmed.

At the outset, the learned counsel for the revisionist/petitioner submitted that he would only address regarding the quantum of sentence imposed upon him.

From the records of the case, it appears that petitioner was driving a Zen Car (offending vehicle) and because of his rash and negligent driving, a person by the name of Manoj was injured. Manoj was taken to the hospital where he succumbed to the injuries. The Trial Court relied upon the deposition of Vijay Kumar (PW.7) who claimed to have seen the accident. PW.7 was standing at a Pan shop at the time when the accident had taken place. In fact, he overpowered the petitioner and handed him over to the police. At the Trial, the petitioner seriously challenged the fact that PW.7 had seen the occurrence.

The facts of the case reveal that the FIR was lodged by the police. The police personnel went to Walia Nursing Home where the injured was being treated. Thereafter, they came to the spot where the accident had taken place and fortuitously met Vijay Kumar (PW.7).

Both the courts below accepted the version of PW.7 in holding that the petitioner was driving a vehicle in a rash and negligent manner resulting in the death of Manoj. The identification of the deceased and the petitioner is not in doubt.

The Victim Impact Report discloses that Motor Accident Claims Tribunal has granted compensation of Rs.2,90,000/- along with interest to the legal representatives of the deceased.

The petitioner while challenging the quantum of sentence submits that

he has been participating in the Trial ever since 2002. He further submits that all the family members are dependent on him and that he has remained in jail for a long period.

Considering the nature of the offence, circumstances under which the vehicle, which was being driven by the petitioner, met with an accident and the fact that petitioner has participated in the Trial with all earnestness, this court is inclined to modify the sentence imposed upon him by the Trial Court and upheld by the Appellate Court. The interest of justice would be served if the petitioner is sentenced for the period which has already been undergone in custody.

Nominal roll of the petitioner reveals that he has remained in jail for about 6 months by now.

The sentence imposed upon the petitioner is modified to the period which the petitioner has undergone in custody.

The revision petition is disposed of accordingly.

No order need be passed in CRL.M.A.5499/2015 and Crl.M.B.No.3306/2015 as they are rendered infructuous.

The petitioner be released from jail forthwith, if not required in any other case.

Copy of this order be sent to the superintendent of the concerned jail for information and compliance.

ASHUTOSH KUMAR, J

JULY 07, 2015/ab