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

+ CRL.REV.P. 290/2016

SHYAM SINGH

..... Petitioner

Through: Mr. Lalit Choudhary and Ms. Mehak
Kalra, Advs.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Neelam Sharma, APP for State.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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02.09.2016

Petitioner was convicted by the trial court under Sections 279/337/304-A IPC vide judgment dated 17th December, 2014 and sentenced to undergo simple imprisonment for three months each for the offence under Sections 279/337 IPC and sentenced to undergo simple imprisonment for one year for the offence under Section 304-A IPC and to pay fine of ₹10,000/- and in default of payment of fine to undergo further simple imprisonment for two months. All the sentences were directed to run concurrently.

Petitioner preferred an appeal bearing No. 06/2015 before the Appellate Court which has been dismissed by the Sessions Judge vide order dated 27th January, 2016. Petitioner has assailed the order of the Appellate

Court whereby appeal has been dismissed by filing present revision petition under Section 397 of the Code of Criminal Procedure, 1973.

Arguments heard and trial court record perused.

FIR 534/2001, in this case, was registered on the statement of PW4 Manoj Kumar who stated in the FIR that on 20th September, 2001 he was going on a bicycle with his sister-Preeti. When he reached near the shop of MP Traders at Ratia Marg at about 2 pm, one truck driven by the petitioner at a high speed came from M.B. Road and hit his bicycle. He and his sister (deceased) fell down. Preeti sustained head injuries; whereas petitioner sustained injuries on his right leg. Petitioner de-boarded the truck and on seeing Preeti in a pool of blood ran away from the spot. He and his injured sister were taken to the hospital in a PCR van. Information about the said incident was received in the police station Sangam Vihar pursuant whereof DD No. 14 was recorded and handed over to ASI Abhay Singh who along with Const. Jagdish and Const. Shish Pal reached at the spot and found the truck bearing no. HR 38E 6644 and one red colour bicycle lying there in an accidental condition. Thereafter, ASI Abhay Singh reached All India Institute of Medical Sciences (AIIMS). Preeti was declared brought dead.

Prosecution examined 9 witnesses. PW4 Manoj Kumar supported the

prosecution version. He deposed that on 20th September, 2001 he was taking his sister-Preeti to a hospital on a bicycle. Truck bearing no. HR 38E 6644, driven by the petitioner, came from the other side and hit his bicycle from front side as a consequence of which he fell down along with sister and sustained injuries. His sister came under the wheels of the truck and died at the spot. PW4 correctly identified the petitioner as a driver of the truck. Statement of PW9 ASI Abhay Singh was also considered relevant, trustworthy and reliable. He has deposed about the investigation conducted by him including the seizure of the offending vehicle as well as vehicle of the injured. He has deposed that notice under Section 133 of the M.V. Act was given to Shri Chotey Lal on 21st September, 2001. In pursuance to the said notice, Shri Chotey Lal produced the petitioner before him. He stated that petitioner is driver and was driving the truck at the time of accident. Doctor who conducted the post-mortem of the deceased opined that tyre marks were present on the right side of the chest and abdomen of the deceased. Doctor further opined that cause of death was coma due to head injuries as a result of blunt force which was possible in a road traffic accident. Statement of petitioner under Section 313 Cr.P.C. was recorded wherein he took a plea that PW4 Manoj Kumar was coming on his bicycle

with her sister and fell down on the heap of dust and *rohri* in the front of the shop of Mainpal as he lost balance and came under the truck. Petitioner further stated that he applied brakes immediately. Trial court found the testimony of PW4 Manoj Kumar trustworthy and reliable and has concluded that petitioner was driving the offending truck in a rash and negligent manner and at a fast speed, which resulted the accident in which deceased died and petitioner suffered simple injuries. Appellate Court scrutinised the evidence at threadbare and concurred with the findings of the trial court.

During the course of hearing, learned counsel for the petitioner has given up challenge to the conviction of the petitioner on merits. He has prayed for reduction of sentence on the ground that petitioner is a poor person. Petitioner has faced agony of trial for 15 years. Petitioner is more than 50 years of age. Petitioner's son has also expired in a road accident on 15th August, 2014. Responsibility of taking care of two children of his late son has also fallen on him.

I have considered the above contentions of learned counsel for the petitioner and perused the nominal roll which indicates that petitioner has completed 9 months in jail. His jail conduct is satisfactory. Keeping in mind totality of the circumstances, while affirming the conviction of the

petitioner, his sentence is reduced to the period already undergone by him. Petitioner is in jail. He be released forthwith if not required in any other case.

Revision petition is disposed of in the above terms.

Copy of the order be sent to the Superintendent Jail for serving it on the petitioner and for compliance.

A.K. PATHAK, J.

SEPTEMBER 02, 2016

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