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

+ CRL.REV.P. 402/2012

SATBIR SINGH

..... Petitioner

Through

Mr. Arun Srivastava, Advocate with
petitioner in person

versus

STATE

..... Respondent

Through

Mr. Sudershan Joon, APP for State
SI Uma Datt, PS M. Puri

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **20.10.2016**

Petitioner was convicted for offence under Section 279/304A IPC by the Trial Court and was sentenced to undergo RI for 2 years with fine of Rs. 5,000/-. Petitioner preferred an appeal before the learned ASJ-3 (Outer) Rohini, Delhi which was dismissed vide judgment dated 05.07.2012.

It is the case of the prosecution that on 09.10.1996 accused-petitioner was driving the offending vehicle i.e. Truck bearing registration no. HYJ-6133 in a negligent and rash manner and due to high speed, it hit the scooter bearing registration no. DBI 4719, as a consequence of which the scooterist, who was driving the said scooter received fatal injuries and died on the spot. HC Chand Kiran was present at the spot and has witnessed the accident. He apprehended the accused and information was sent to the police station. Pursuant thereof, DD No. 13A was registered at PS Mangol Puri and was handed over to ASI Ramphal along with Ct. Rohtas who reached the spot. Petitioner was arrested, statement of eyewitness HC Chand Kiran was recorded

and FIR was registered. Subsequently, one Sh. Ram Lubhaya came to the police station and claimed that he had witnessed the accident, his statement was recorded.

Post mortem was conducted by Dr. B N Acharya vide his report Ex. PW1/A. Photographs of the spot were taken. Truck as well as the scooter were mechanically inspected.

During trial, eyewitnesses HC Chand Kiran and Ram Lubhaya were examined as PW3 & PW-6 respectively. Dr. B N Acharya was examined as PW1 and the police officials, who had joined the investigation at one or the other stage, were also examined. The trial court as well as Appellate Court have found the testimonies of eyewitnesses trustworthy and reliable to conclude that petitioner, while driving the truck in a rash and negligent manner had caused the death of deceased. Post mortem report was considered as corroborative piece of evidence besides mechanical inspection reports.

PW-3 has deposed that the offending truck was driven by the accused at a fast speed and in a negligent and rash manner. Truck hit the scooter when it was stationery as there was Red Light Signal at the crossing from behind. Similar is the statement of PW-6 Ram Lubhaya. The trial court as well as the appellate court have noted that testimonies of PW-3 & PW-6 had remained unshattered in the cross examination and were trustworthy and reliable.

There are two concurrent findings of facts of the courts below. It is trite to say that in exercise of its revisional jurisdiction, High Court is not to sift and weigh the evidence on record as if hearing an appeal and substitute a finding against what has been arrived by the two courts below after marshalling the evidence. Only gross perversity in the

findings as well as the procedural illegality, if any, has to be considered. High Court can interfere only if petitioner is able to demonstrate any flagrant violation or misuse of procedure in the order or that the settled legal position had been ignored. Petitioner has failed to point out any perversity and illegality in the impugned order resulting in miscarriage of justice. It cannot be said that the findings returned by the courts below are without any evidence and/or are perverse.

During the course of hearing learned counsel for the appellant has given up the challenge to the conviction of petitioner. He has, however, prayed for reduction of sentence. It is submitted that the accident occurred twenty years ago, the petitioner has no previous criminal record, even during the trial, he was on bail and has not indulged himself in any other crime. Presently, the petitioner is doing farming, he has three children, wife and aged mother dependent on him. It is submitted that petitioner belongs to a poor family and the entire family is surviving on his meagre income. It is further submitted that the petitioner has already completed sentence of 10 months. It is prayed that petitioner's sentence be reduced.

Keeping in mind the above facts and circumstance, sentences of the petitioner are reduced to the period already undergone by him.

Petition is disposed of.

A.K. PATHAK, J.

OCTOBER 20, 2016/sm