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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL. REV. 442/2016**

JWALA PRASAD Petitioner
Through: Mr. Sidharth Joshi, Adv.
Versus

STATE (GOVT. OF NCT OF DELHI) Respondent
Through Dr. M.P. Singh, APP for State.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

% **ORDER**
22.06.2016

Vide judgment dated 31st March, 2016 petitioner was convicted under Sections 279/337/338 IPC by the trial court and vide order on sentence dated 18th April, 2016 was sentenced to undergo simple imprisonment for six months under Section 279 IPC; simple imprisonment for six months under Section 337 IPC with compensation of Rs.10,000/- to the injured Meera Devi and Om Prakash and in default of payment of compensation to undergo simple imprisonment for 30 days and simple imprisonment for six months with compensation of Rs.10,000/- to the injured Kamla Devi under Section 338 IPC and to undergo six months simple imprisonment in default of payment of compensation. All the sentences were directed to run

concurrently. Petitioner preferred an appeal before the Appellate Court against his conviction and sentence which has been dismissed by the judgment dated 9th June, 2016, impugned in this revision petition.

After scrutinising the evidence adduced by the prosecution, trial court has concluded that on 23rd March, 2002 petitioner was driving TSR No. DL1RC-1146 in a rash and negligent manner at about 10:45 pm as a result whereof, the said TSR overturned resulting in injuries to three occupants, namely, Meera Devi, Om Prakash and Kamla Devi. Om Prakash and Meera Devi sustained simple injuries; whereas Kamla Devi sustained grievous injuries. The incident resulted in registration of FIR No. 79/2002 under Sections 279/337/338 IPC. For arriving this conclusion, trial court has found testimony of PW1 Om Prakash, PW2 Meera Devi and PW3 Kamla Devi to be trustworthy and reliable. As regards registration of FIR and investigation are concerned, statements of PW4 Constable Raj Kumar, PW5 Head Constable Ramesh Chand, PW6 Inspector Anun Kumar Choudhary and PW7 Head Constable Sukhpal Singh had been relied upon. Trial court has noted that petitioner admitted the factum of registration of FIR, preparation of MLCs and preparation of mechanical inspection report. Appellate Court has also relied on MLCs and statement of witnesses more

particularly of PW1 Om Prakash, PW2 Meera Devi and PW3 Kamla Devi and was in conformity with the findings returned by the trial court. There are two concurrent findings of the courts below upon appreciation of evidence.

During the course of hearing, learned counsel for the appellant has given up challenge to the conviction of the petitioner under Sections 379/337/338 of the IPC. Only prayer has been made for reduction in sentences as awarded to the petitioner. It is contended that petitioner had been driving auto rickshaw at the relevant time. Petitioner is aged about 54 years and is working as a Watchman and earning Rs.6,000/-to Rs.7,000/- per month. Petitioner's whole family is dependent upon the meagre income of the petitioner. He is the sole bread earner in the family. He has already faced agony of trial for about fourteen years. He has no previous criminal record. Keeping in mind all these facts and the nature of the injuries, inasmuch as, that petitioner is the first time offender, while upholding the conviction of the petitioner, his sentences are reduced to two months each under Sections 279/337/338 IPC. As regards compensations are concerned, the same are not altered. Needless to add that all the sentences shall run concurrently.

Writ petition is disposed of in the above terms. All other miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.
(VACATION JUDGE)

JUNE 22, 2016
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