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

\+ CRL.REV.P. 616/2016

AKBAR ..... Petitioner

Through: Mr. Ravindra Narayan and Mr. Raghav Narayan, Advs.

versus

STATE OF NCT OF DELHI ..... Respondent

Through: Mr. Tarang Shrivastava, APP for State.

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

O R D E R

% 15.09.2016

Trial court has convicted the petitioner under Sections 279/304A of the Indian Penal Code, 1860 and sentenced him to undergo simple imprisonment for six months under Section 279 IPC; simple imprisonment for one year under Section 304A IPC. Both the sentences were directed to run concurrently. Petitioner preferred appeal before the District & Sessions Judge (South Delhi), Saket Courts, New Delhi which has been dismissed vide judgment dated 3rd September, 2016.

That is how petitioner is before this Court by way of present revision petition under Section 397 read with Sections 401 and 482 of the Code of Criminal Procedure, 1973 ('the Code', for short).

Prosecution case is that the petitioner, on 29th July, 2005 at about

10:30 am, while driving truck bearing registration no. HR 38B 2686 in a rash and negligent manner and at a high speed, hit a cyclist namely Mantu (deceased) near Jaindada Mandir, as a result whereof deceased fell down and came under the rear wheel of the truck. Petitioner stopped the truck. Deceased was thereafter removed to All India Institute of Medical Sciences (AIIMS) by the complainant-Paramjeet in a TSR. Complainant stated that he was also going with the deceased on his cycle and had witnessed the incident.

Paramjeet was examined as PW1, and trial court found his testimony trustworthy and reliable. Appellate court has also marshalled the entire evidence on trial court record; more particularly statement of PW1 and has concurred with the findings returned by the trial court. Both the courts below have concluded, from the statement of PW1 coupled with the post-mortem report Ex.A-4, that petitioner, while driving truck HR 38B 2686 on 29th July, 2005 in a rash and negligent manner and at a high seed, had hit cycle of Mantu, as a result whereof Mantu came under the rear wheel of the said truck and sustained fatal injuries resulting in his death.

Learned counsel for the petitioner has vehemently contended that statement of PW1 has wrongly been accepted by the trial court as well as

appellate court, inspite the fact that it suffers from inherent natural contradictions and discrepancies. It is trite law that jurisdiction of High Court under Section 397 of the Code is supervisory in nature. The revisional jurisdiction cannot partake the status of an appeal. The evidence led by the parties, which has already been scrutinised by the two courts below, cannot be scrutinised afresh by the High Court so as to take a different view than what has been taken by the trial court. High Court will interfere only if the findings of the courts below are perverse or suffer from procedural illegality or where established principles of law have not been followed. If the view taken by the trial court is a possible view the same cannot be substituted by the High Court with a different view which it feels is more plausible.

I do not find the view taken by the trial court to be perverse. Though, it is not necessary to scrutinize the testimony of PW1 but still to satisfy my conscience, I have gone through the testimony of PW1 as also his statement recorded at the time of registration of FIR and to my mind he has corroborated the prosecution story set up in the FIR on material points. Learned counsel has contended that PW1 has changed the place of incident while deposing in Court. I do not find this contention to be correct. In the

FIR, PW1 had stated that incident took place opposite Jaindada Bari while deposing in Court also he has stated that when they reached Dada Bari near Andheriya Mor, Mantu, who was going ahead, was hit by the truck driven by the petitioner. Learned counsel has next contended that complainant had stated in the FIR that he was going to DLF via MG Road; whereas in court he has deposed that they were returning from Saidulajab. This is not a material contradiction as the place of incident has not been changed which according to the FIR as also from the statement of PW1 is near Jain Dada Bari. Learned counsel has further contended that in the FIR PW1 had not stated that the cycle of Mantu was dragged about 20 feet but while deposing in court he stated so. This also cannot be said to be a material discrepancy, moreso when his statement in Court was recorded after 8 years of the incident, resultantly such minor discrepancies.

For the foregoing reasons, revision petition is dismissed. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

SEPTEMBER 15, 2016
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