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

Date of hearing and Order: 17th March 2016

+ CRL.REV.P. 368/2015
RAVINDER KUMAR

..... Petitioner

Through: Ms. Arundhati Katju, Mr. Ali
Choudhary, Advocates

versus

STATE

..... Respondent

Through: Mr. Kamal Kumar Ghai, Additional
Public Prosecutor for the State with
Sub-Inspector Prateek Saxena, Police
Station Anand Vihar, Delhi

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

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ORDER
17.03.2016

P.S. TEJI, J. (ORAL)

1. By this petition filed under Section 397/401 of Cr. P.C. read with Section 482 of Cr. P.C., the petitioner seeks to challenge the order of conviction dated 15.11.2014 and order on sentence dated 01.12.2014 passed by learned A.C.M.M., Karkardooma Courts, Delhi, whereby the petitioner has been convicted in case registered as FIR No. 500/2005 under Section 279/304A of IPC at Police Station Anand Vihar, Delhi and has been sentenced to undergo rigorous

imprisonment for a period of one and half years. The petitioner also seeks to challenge the order dated 25.03.2015 passed by learned Additional Sessions Judge, Karkardooma Courts, Delhi, passed in Criminal Appeal No.8/2014, whereby the learned Additional Session Judge has dismissed the appeal filed by the petitioner and upheld the impugned orders passed by the learned ACMM, Karkardooma Courts, Delhi.

2. The brief gist of the prosecution story is that on 07.09.2005 at about 9.05 pm at Platform A, Counter No.34, ISBT Anand Vihar, Delhi, the petitioner was driving a Bus bearing No. DL-1PA-7155 in a rash and negligent manner and hit against a pedestrian namely Sneha Sharma, thereby causing her death amounting to culpable homicide. The information regarding this incident was given to police by ASI Gurcharan Singh and DD No.32 was recorded to this effect. The said DD was assigned to HC Rambir Singh who reached on the spot where he met Ct. Gurdayal who produced the petitioner – driver Ravinder Kumar and informed that the injured had been shifted to Dr. Hedgewar Hospital through PCR Van. Thereafter, HC Rambir alongwith Constable Tirathraj went to the hospital and obtained MLC No.1505/05 of the injured Sneha Sharma wife of Shri Sumesh Sharma. During treatment, the injured Sneha Sharma succumbed to her injuries. Rukka was prepared and FIR No.500/2005 under Section 279/304A of IPC, at Police Station Anand Vihar, was registered against the petitioner.

3. Accordingly, charges were framed against the petitioner to

which he pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined 7 witnesses and the statement of accused (petitioner herein) was recorded under Section 313 Cr. P.C. which he denied the charges against himself and claimed trial. Trial began, evidence was lead and arguments were heard. Ultimately, vide impugned orders, the petitioner was convicted with the offences charged against him and was sentenced to undergo one and half years rigorous imprisonment and fine of Rs.20,000/- out of which Rs.15,000/- was directed to be given to the nearest and dearest relative of the deceased as compensation.

5. The petitioner filed an appeal against the aforesaid impugned orders and the learned Additional Session Judge vide order dated 25.03.2015, dismissed the same, finding no merits therein.

6. Ms. Arundhati Katju, learned counsel appearing for the petitioner raised the contradictions in the testimonies of the witnesses. After arguing at length, the learned counsel for the petitioner restricted her arguments on sentence passed by learned A.C.M.M. and submits that the petitioner has already undergone the sentence for a period of 7 months and 29 days and has also earned the remission of 1 month and 14 days. Counsel for the petitioner further contended that the petitioner is aged about 44 years and no case of any nature is pending against him. The petitioner has a family, consisting of his wife and one school going minor daughter of 10 years of age and studying in class V and nobody is there in the family to look after them. The fine as

imposed by the Trial Court, has already been deposited. It is contended that the case of the petitioner be considered with leniency and the sentence of the petitioner be reduced.

7. Mr. Kamal Kumar Ghei, Additional Public Prosecutor appearing for the State contended that the impugned orders passed by learned ACMM as well as order passed in appeal by learned Additional Session Judge are well reasoned orders and they do not call for any interference, therefore, the present revision petition is liable to be dismissed.

8. I have heard learned counsel for the parties and have also gone through the impugned judgments and orders and the nominal roll of the petitioner.

9. After considering the submissions advanced by both the sides and upon perusal of the impugned order, evidence on record and the decisions cited, I find that there is no illegality or infirmity in the impugned conviction of petitioner-accused. However, on the quantum of sentence, this Court observes that the petitioner is aged about 44 years and no case of any nature is pending against him. The petitioner has a family, consisting of his wife and one school going minor daughter of 10 years of age and studying in class V and nobody is there in the family to look after them and in the considered opinion of this Court, the petitioner has already faced agony of these proceedings for last about 11 years. Nominal roll of the petitioner is also perused by this Court, according to which the petitioner has already remained

behind the bars in this case for 7 months and 29 days.

10. This Court further observes that the petitioner is charged with the offence punishable under Section 279/304A of IPC, which do not prescribe any minimum sentence. Therefore, after considering the facts that the petitioner is not a previous convict, has family to support and has already undergone the agony these proceedings for the last about 11 years, this Court is of the opinion that ends of justice would be met if petitioner's substantive sentence is reduced from one and half years to one year.

11. At this stage, counsel for the petitioner submits that the substantive sentence of petitioner has already been suspended vide order of this Court on 19th November 2015. It is further submitted that there are exams of his daughter, therefore, the petitioner be granted time to surrender before the Trial Court.

12. This Court observes that the substantive sentence imposed upon the petitioner was suspended vide order dated 19th November 2015 and the nominal roll of the petitioner shows the overall conduct of the petitioner being satisfactory, therefore, this Court is inclined to grant time to the petitioner to surrender before the Trial Court on 30th April 2016 to serve out the remainder of the sentence.

13. In view of the aforesaid directions, the present revision petition is partly allowed on the quantum of sentence to the extent indicated above.

14. Trial Court be apprised of this order forthwith by sending copy of this order.

15. Copy of this order be also sent to the Jail Superintendent for information.

16. This revision petition is disposed of in aforesaid terms.

P.S.TEJI, J

MARCH 17, 2016

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