

\$~48

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of hearing and order: 3rd March 2016

+ CRL.REV.P. 512/2015

JOGINDER SINGH @ GANESH

..... Petitioner

Through: Mr. Rajender Chhabra, DHCLSC.

versus

STATE

..... Respondent

Through: Mr. Rajat Katyal, Additional Public
Prosecutor for the State with Sub-
Inspector Ashok Kumar, Police
Station Kashmere Gate, Delhi

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

%

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 15.01.2015 and order on sentence dated 20.01.2015 passed by learned Metropolitan Magistrate, Central, Tis Hazari, Delhi, whereby the petitioner had been convicted in case FIR No. 159/2001 under Section 279/304A of IPC and has been sentenced

to undergo simple imprisonment for a period of 10 months and fine of Rs.4,500/-. The petitioner also seeks to challenge the orders dated 14.05.2015 whereby the appeal filed by the petitioner was dismissed by learned Additional Sessions Judge Central, Tis Hazari, Delhi.

2. The case of prosecution is that on 20.04.2001 at about 11.45 pm at Subhash Marg, Near Mini Bus Stand, ISBT, the petitioner was found driving Bus No. DL-1PA-7132 in rash and negligent manner and while driving so he hit against an unknown pedestrian and caused his death. The petitioner was charged with the offence punishable under Section 279/304-A of IPC. The trial commenced and the prosecution had examined 12 witnesses to bring home the guilt of the petitioner. After concluding the trial the Trial Court vide judgement dated 15.01.2015 had held the petitioner guilty for the offence punishable under Section 279/304A of IPC and was sentenced to undergo simple imprisonment for a period of ten months with fine of Rs.4,000/- and in default of payment of fine, the petitioner was directed to undergo simple imprisonment for further period of 30 days. However, in an appeal against the order on sentence, the sentence imposed upon the petitioner was reduced to SI for one month with fine of Rs.500/- for offence under Section 279 of IPC and SI for six months with fine of Rs.4,000/- for the offence under Section 304A.

3. At the outset, the learned counsel for the petitioner does not press the present petition on the judgment on conviction but restricts his arguments on the point of sentence for a period of 10 months

passed by learned Metropolitan Magistrate, which was reduced by the learned Additional Sessions Judge vide order dated 14.05.2015 to six months. Counsel for the petitioner submits that the petitioner has already undergone the sentence for a period of 4 months and 16 days and also earned remission and only 23 days are left to be completed. Counsel for the petitioner is a poor driver and has family to support, therefore the sentence imposed upon the petitioner be reduced to the period already undergone.

4. Mr. Rajat Katyal, Additional Public Prosecutor for the State appears on behalf of the State and submits that the sentence imposed upon the petitioner has already reduced from 10 months to 6 months and the order passed by learned Additional Sessions Judge in the appeal filed by the petitioner is well justified and does not call for any interference from this Court.

5. 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.

6. After considering the submissions advanced by both the sides and upon perusal of the impugned order, 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 a poor driver and has family to support, and this court observes that the present case is of the year 2001 and the petitioner has already faced agony of these proceedings for last more

than 14 years, and that he has already remained behind the bars in this case for 4 months and 16 days and he has also earned remission and only 23 days are left to complete the sentence of 6 month awarded by learned Additional Sessions Judge. Therefore, this Court is of the opinion that ends of justice would be met if petitioner's substantive sentence is reduced to the period already undergone by him.

7. Counsel for the petitioner submits that the petitioner is already on bail. Accordingly the bail bond furnished by the petitioner shall be discharged by the Trial Court upon filing an application on behalf of the petitioner alongwith copy of the present order.

8. In view of the aforesaid discussion, the present revision petition is partly allowed on the quantum of sentence to the extent indicated above. Trial Court be apprised of this order forthwith by sending copy of this order.

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

P.S.TEJI, J

MARCH 03, 2016
pkb